



Improving Oversight and Accountability

Municipal Public Accounts Committees (MPAC) Guide and Toolkit



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1. INTRODUCTION AND OVERVIEW OF THE MPAC GUIDE AND TOOLKIT

The toolkit was developed with a view to assist councillors serving on Municipal Public Accounts Committees and other key stakeholders to perform their oversight and related responsibilities as elected members. The aim is also to improve accountability, transparency, economical, effective and efficient use of public resources in executing municipal functions giving effect to service delivery.

Other key priorities include obtaining better value for money, redistribution of resources and equity, inclusive growth, attraction of investments and creating opportunities for employment, achieving a safe and healthy environment, improving access to services and addressing backlogs.

There are limitations on availability of public resources and finances to deal with all challenges immediately, however, it has been reported that unauthorised, irregular, fruitless and wasteful expenditure was over R30 billion in 2015/16 financial year. This has fuelled sentiments that performance is weak, resources are being squandered, perceptions are that corruption and maladministration are widespread, and that other forms of misuse of public resources are going unchecked.

The role of oversight committee and officials serving in the local government sphere have critical roles to play in nurturing and maturing democratic institutions by exercising proper oversight of public funds and government programmes in a transparent and accountable manner. The legislative and regulatory framework provides for different layers of oversight, national, provincial and local. Internal and external audit processes also contribute to giving public the confidence in the democratic system.

Partnership with civil society and stronger public oversight to effectively engage on these issues and support measures provided to improve performance and reduce wastage of public resources also contribute towards achieving the ideas espoused in a developmental state. It is widely accepted that effective public oversight is key. A municipal council is accountable when there is improved public oversight and transparency in the use of public resources. Such oversight can only be effectively implemented by a municipality that is clear on the various roles and responsibilities assigned to political representatives on the one hand and the municipal administration on the other. The oversight committee of council and senior management of the municipality are key to the effective implementation of the legislation, regulations, policies and by-laws of council. The distinction between the executive structures and functions of council must inform this approach.

When considering the purpose of a municipal public accounts committee, it is important to note that modern audit functions do not end with financial matters but extend to operational and institutional performance as well. The legislative framework is designed to ensure oversight structures and audit committees for example, have potential to demand evidence of the performance outcomes often claimed by management. These are contained in documentation that must be adopted by Council. Already there are indications that managers are becoming aware of the need to report clearly on performance in a manner that is supported by evidence. Reported achievements must be comparable with pre-determined objectives and goals.

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Municipal Public Accounts Committees (MPACs) are modelled on the example of *Standing Committee on Public Accounts (SCOPA)*, with specific differences by virtue of the legislative framework, widely used in South Africa by legislatures at the national and provincial level. The MPACs, according to the Auditor-General "... undertake and manage similar functions and responsibilities for municipalities as undertaken by the SCOPA." There are however, key differences that must be noted as it relates to their powers and functions as these have been outlined in the MFMA, MSA and supporting guides. Given the recent transitional process and impacts on municipal demarcations, municipalities have begun the process of establishing MPACs. This is so due to the many changes in institutional, functional and operational requirements in municipalities. With added support and close monitoring by national and provincial government of MPACs functionality and effectiveness, it is envisaged that the process that commence in 2011 will be further strengthened after the 2016 local government elections.

This Guide and Toolkit has been designed on the premise that systems and tools to promote value for money aligned to performance, operational efficacy and impact of council oversight committees are needed. The comments of the Auditor-General also suggest that even when MPACs are in place, committee members do not necessarily understand their role and often lack the basic skills necessary to ensure a robust committee engagement and careful scrutiny of the activities and decisions taken by the executive and administration. There is also little indication of community participation or engagement with the public oversight process as espoused in the legal framework. When oversight structures, including MPACs or Audit Committees voice concerns with the executive's and managements handling of service delivery performance, audit and financial governance challenges, such concerns are often not heard beyond council chambers or conclusively addressed. For example, community engagements on the contents of the Annual Report can therefore be strengthened as information therein provide the transparency and accountability links between communities and council.

Municipal Public Accounts Committees also experience turnover of councillors at least every five years due to the cycle of local government elections. MPACs therefore often take office as a new committee with new incumbents ready to exercise oversight but often are lacking oversight expertise, experience and skills. The main thrust of this Guide and Toolkit is to accelerate learning by new incumbents in order to enable them to actively engage in oversight activities, as soon as possible.

The Guide and Toolkit therefore provides a range of instruments to support the MPACs as they exercise oversight. The main emphasis is placed on practicality and tasks that an ordinary MPAC member would be called upon to perform.

The Accountability Cycle



- Organisational structure aligned to services;
- Sound municipal policies, processes and procedures;
- Financial and Non-Financial performance information.

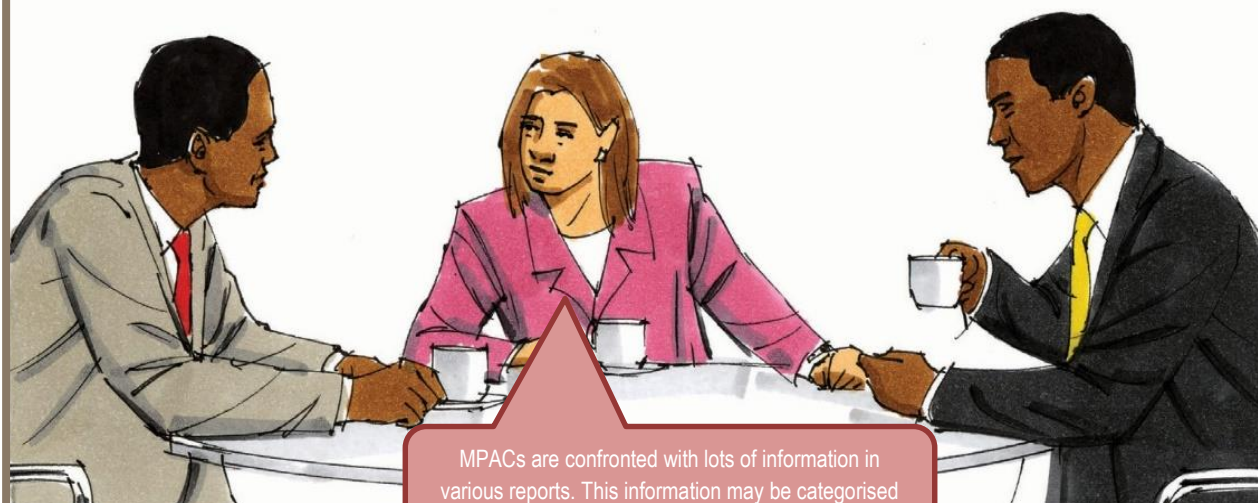
2. MPAC SCOPE OF WORK



Before introducing the various instruments that form part of the Guide and Toolkit it is necessary to consider the objectives of MPACs during the oversight process:

1. Financial and Non-financial information (financial statements, performance reports, annual reports) provided is accurate and conforms to standards for reporting
2. Probes and clarifies any deviations in form or the information contained in these statements, where such a deviation may amount to a potential for risk to the municipality
3. That performance information is clear and unambiguous and properly explains any deviations from the performance standards agreed to in the SDBIP and performance agreements.
4. Probes and clarifies any deviations in performance or the expenditures incurred in relation to performance, where such a deviation may amount to a potential for risk to the municipality
5. That reporting in relation the *Supply Chain Management* processes within the municipality is clear and unambiguous and properly discloses any deviations from the municipal policies and procedures relating to Supply Chain Management.
6. Probes and clarifies any deviations within the Supply Chain Management processes and procedures, where such a deviation may amount to a potential for risk to the municipality
7. The reports properly and accurately identify and quantify any instances of unauthorised, irregular, wasteful and fruitless expenditure, as well as maintaining a register with actions and timelines.
8. Probes and clarifies all instances of unauthorised, irregular, wasteful and fruitless expenditure.
9. Seeks to identify responsible parties in the case of deviations from any process or policy and ensure consequence management is followed.
10. Makes appropriate and timely recommendations to Council to address shortcomings in Oversight Reports, and matters relating to unauthorised, irregular, wasteful and fruitless expenditure.

What Types of Information is the MPAC likely to be called upon to consider



MPACs are confronted with lots of information in various reports. This information may be categorised broadly as financial and performance information.

3. SEPARATION OF EXECUTIVE AND LEGISLATIVE POWERS

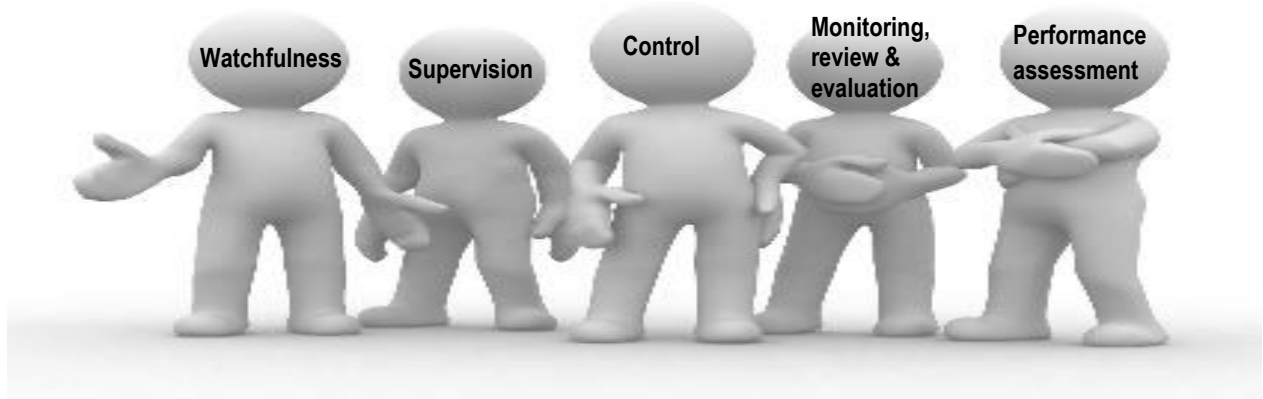
Further clarification is provided on role of MPAC as a committee of council that need to exercise oversight over the executive – a component of council. There is also a close working relationship required by MPAC councillors and Finance Committee Councillors. It is critical therefore that both the MPAC and all the structures and office holders that it interacts with understand the principle of the **separation of powers**. Council as a whole is the legislative body because it alone has the power to make by-laws and policies. Council delegates some of this authority to the executive and the administrative heads but it does not give up its powers and must continue to exercise oversight – it does this through the MPAC. This is enabled through section 129 of the MFMA. The scope for MPAC activities also encompass other issues relating to recommendations on unauthorised, irregular, fruitless and wasteful expenditure, and performance, however this committee of council should not be seen as a super council but a committee of council, in its own right, working within the delegation framework of the municipal Council.

3.1 Why is the separation of powers important?

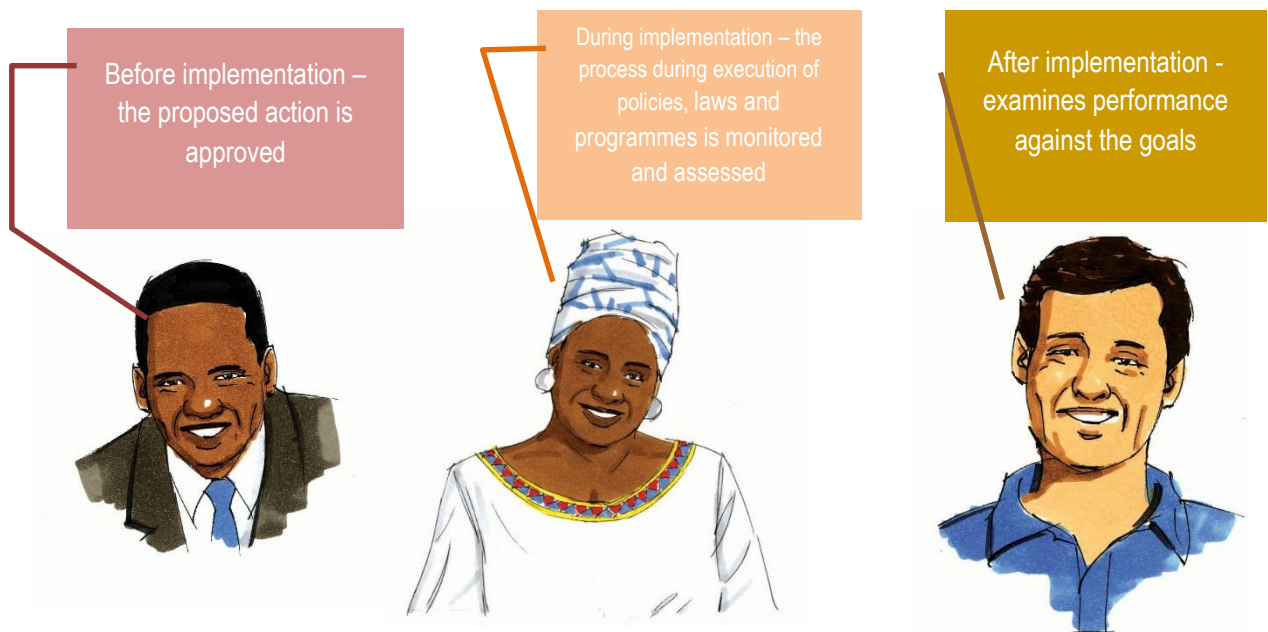


3.2 What do we mean by Oversight?

To watch somebody or something and make sure that a job or activity is done correctly. Oversight includes:



Oversight ensures that the executive complies with the intent of the legislature and does not behave in a manner that allows maladministration, inefficiency, waste or corrupt practices. Oversight takes different forms depending at what stage it is exercised:



Strong oversight promotes accountability in the sense that those whose actions and performance is monitored by a legitimate oversight body, are more likely to feel obliged to justify their actions.

3.3 Separation of powers at local government level

At local government level, however, the Constitution (Section 151 (2)) has vested both legislative and executive powers in the council. Despite this, legislation has provided that the executive authority of the council may be exercised through the executive committee or the executive mayor. In this model, legislative authority then resides with the council.



Legislative functions are left within the scope of the council, under the control and charge of the speaker, whereas executive functions have been entrusted in the executive mayor or executive committee.

The assignment of terms of reference and distinct competencies to the various structures of the municipality also offers the opportunity for the separation of powers. Within the disciplines of governance and public administration, the separation of powers is widely recognised as a useful organisational principle that advances democracy, transparent decision-making and accountability.

The legal right of municipal councils to establish and adopt committees creates the scope for a structural separation of executive and legislative authority. However, municipal adoption of the current committee options in terms of the Municipal Structures Act, i.e. Section 80 or Section 79 committees, does not always bring out the distinction between committees that serve the executive and those that serve the legislature (council.) These variations also relate to the type and size of municipality.

Section 79 committees are formed by council to better handle its functional responsibilities and deal with matters like discipline, rules, audits etc. These committees derive their powers and functions from council and unlike Section 80 committees, whose decisions and recommendations may be reviewed by the executive, any review of Section 79 committee decisions must be dealt with by council and delegated authority can only be withdrawn by council. Many of these committees have been granted the power to request councillors and officials to appear before them as part of the oversight function.

Section 80 committees are generally referred to as *portfolio committees* and usually assist the Executive Mayor. They are only applicable within municipalities that are of the executive committee or mayoral executive type and are usually permanent committees that specialise in one area of work and may be given executive authority on a limited range of responsibilities. They derive their powers and functions from the Executive Mayor rather than council. Section 80 committees typically deal with thematic areas of municipal governance like finance, engineering, community services, planning etc.



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MPACs should be constituted as Section 79 committees in that they arise from within council and are comprised of councillors. Since they report to council and not the executive, they are suited to providing oversight over the executive and the administration. The purpose of these committees is not prescribed but is determined by council – thus MPACs may be assigned the oversight functions deemed necessary by council.

The separation of powers via delegations

The Municipal Systems Act (Section 59 (1)) prescribes that a municipal council must develop a system of delegation that will maximise administrative and operational efficiency and provide for adequate checks and balances.

These systems of delegation may be used to give executive powers and functions to political structures and political office bearers other than the council. Thus, different political office bearers and structures become separated from the council and are allowed to exercise executive powers and functions with some independence. The prudent use of this system allows municipalities to separate council powers between executive (the Mayoral Committee for example) and legislative authority (Council as delegated to the MPAC). Therefore, an oversight and accountability relationship is established without the formal or Constitutional separation of legislative and executive authority.

Delegations or terms of reference for office holders or committees / other structures of council are usually set out in a formal document or documents. For some office bearers and municipal structures, the assigned powers and functions are prescribed in legislation.

The MPAC and the Office of the Speaker

This is a complex relationship since the MPAC does not report to the Speaker (who might be regarded as part of the executive although the powers and functions granted to the Speaker often try to avoid this overlap) but council in its entirety. However, in terms of Section 37 of the Municipal Structures Act, the Speaker is responsible for all council processes including rules of order, code of conduct and the performance and integrity of the council. This authority extends to the Section 79 committees (and therefore MPAC) however Speakers generally understand that their authority should never be exercised in a manner that inhibits the oversight responsibility of the MPAC.

3.4 The MPAC as an oversight body

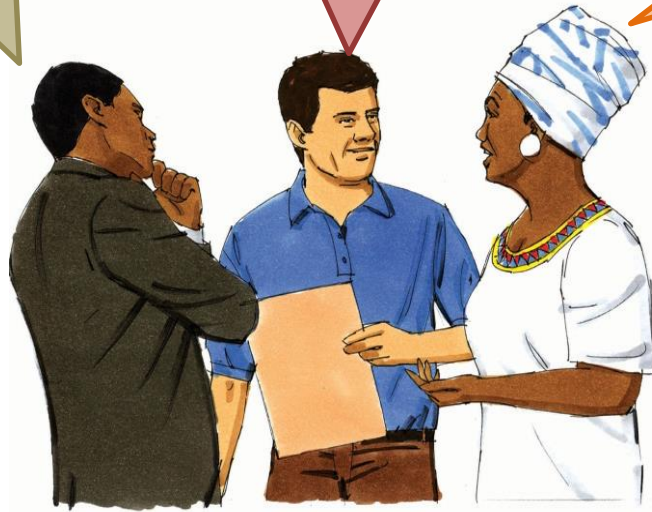
Whilst other portfolio committees may be delegated an oversight function, the MPAC is the main oversight body in terms of the policy guidelines issued by National Treasury, COGTA and SALGA in 2012. Any duplication of functions must be resolved by Council through its delegation framework. The forerunners to the MPAC before 2011 included Oversight Committees. Functions typically associated with oversight of the executive and assigned to these bodies include:

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Review financial statements, audit reports, performance reports and annual reports, including overseeing public consultation and the adoption of the oversight report

Review in year reports, section 71 and 72 reports (see Finance Committee)

Budget compliance and alignment of budget, IDP and SDBIP (see Finance Committee role)



Promote value for money within projects, planning and general expenditure

Promoting good governance, transparency and accountability in the use of municipal resources

Process investigation reports and advise council in respect of unauthorised, irregular or fruitless and wasteful expenditure, and recommend write-offs or recovery.

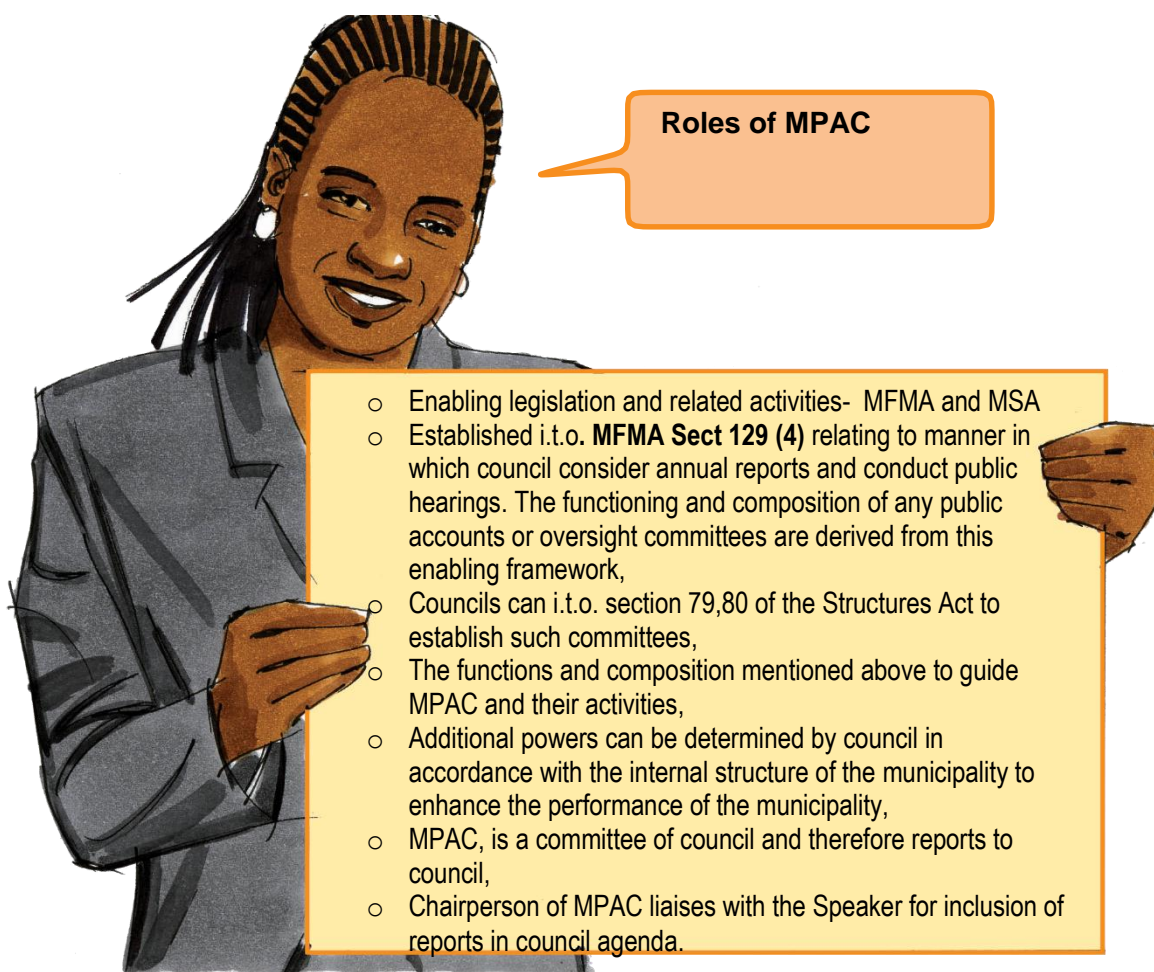


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To enable MPAC to exercise its functions it has usually been vested with the power to access any information, documents and reports and to require councillors, officials, chairpersons of municipal entity boards and directors to attend any meeting or interview and report on matters on agenda items. The Internal Audit Units and Audit Committee must support MPAC in its activities to ensure issues discussed are relevant, apply a consistent approach to matters, act within the legislative framework, raise and respond to matters to enable them to be addressed on a timely basis and support recommendations. This will also ensure continuity and reduction in duplication of functions and effort within council.

3.5 The Roles and Functions of MPAC vs. the Finance Committee

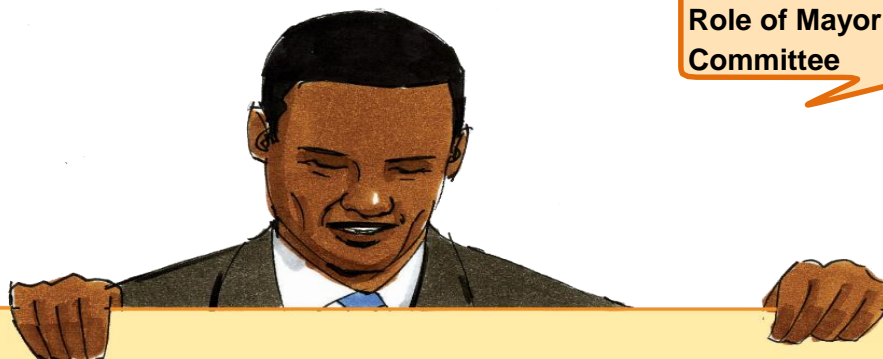
This section of the Guide and Toolkit attempts to clarify the roles and functions of MPAC and Finance Committee so that duplication is avoided and contradictory recommendations made. It also supports the various activities that municipal officials in the administration deliver as their responsibility, which clarify flow of information and reports. This section also draws directly from the legislative framework, primarily being the MFMA and MSA.



Roles of MPAC

- Enabling legislation and related activities- MFMA and MSA
- Established i.t.o. **MFMA Sect 129 (4)** relating to manner in which council consider annual reports and conduct public hearings. The functioning and composition of any public accounts or oversight committees are derived from this enabling framework,
- Councils can i.t.o. section 79,80 of the Structures Act to establish such committees,
- The functions and composition mentioned above to guide MPAC and their activities,
- Additional powers can be determined by council in accordance with the internal structure of the municipality to enhance the performance of the municipality,
- MPAC, is a committee of council and therefore reports to council,
- Chairperson of MPAC liaises with the Speaker for inclusion of reports in council agenda.

Role of Mayor and Finance Committee



- Enabling legislation and related activities
 - The Mayor of the Municipality must provide general political guidance over the fiscal and financial affairs of the municipality, i.t.o. **MFMA Section 52**,
 - IF the municipality does not have a Mayor, it must designate a councillor to exercise the powers and duties i.t.o. **MFMA Section 57** to a Mayor,
 - Councils can i.t.o. section 79,80 of the Structures Act to establish such committees,
 - The Finance Committee, is a committee of council and therefore reports to Council,
 - This also depends on the delegation system in council as the original functions are performed on behalf of the Mayor,
- The Finance Committee is primarily responsible to ensure the processes and policies on planning and budgeting are aligned, budget inputs are sound, credible and reflects council policies, SDBIP is aligned to the plans and budgets, as delegated i.t.o. **MFMA Sect 15-31 and 33**.

Roles of MPAC	Roles of Finance Committee
<p>The functions of MPAC as per Guideline for establishment of MPAC by NT are:</p> <ul style="list-style-type: none"> ○ To promote good governance, transparency, accountability and value for money on the use of municipal resources; ○ It considers and evaluates the content of the annual report and makes recommendations to Council when adopting an oversight report on the annual report, i.t.o. MFMA 127 & 129 (1) ○ The new Annual Report format and process is designed to expedite engagement and corrective actions as contained in MFMA Circular 63 issued in 2012. It contains two parts, one non-financial (performance) and financial information (AFS, Audit results) and a number of annexures supporting oversight activities of councillors and communities; ○ Feedback from officials confirming internal arrangements on preparation of Annual Financial Statements and Annual Reports are on track i.t.o. MFMA Sect 121 & 122 and corrective measures implemented ○ Use information from submission and tabling of Annual Report in preparation 	<p>The functions of Finance Committee are:</p> <ul style="list-style-type: none"> ○ Acting transparently and accountably it considers and evaluations inputs on the budget and related policies to give effect to a credible (i.e. funded and sustainable over the MTREF) budget; ○ provide political guidance on the fiscal and financial affairs of the municipality, including the budget process and the priorities that must guide the preparation of the budget i.t.o. MFMA Sect 52 ○ Reviews service delivery targets against budget allocations; ○ It reviews reports on past and current performance of revenue, grants, property taxes, service charges, indigent policies, collection levels, cash flows, assets, expenditure, salaries, bulk electricity and water purchases, borrowing, losses, creditors and other liabilities; i.t.o MFMA Sect 15-31 and 33 ○ Tariff policies i.t.o. MSA Section 74-75 ○ Debt collection and Credit control powers i.t.o. MSA Sect 95-104 ○ It also reviews policies to ensure procurement processes are fair, equitable, transparent, competitive and cost effective, i.t.o. MFMA Section 112 (noting sect 117-118)

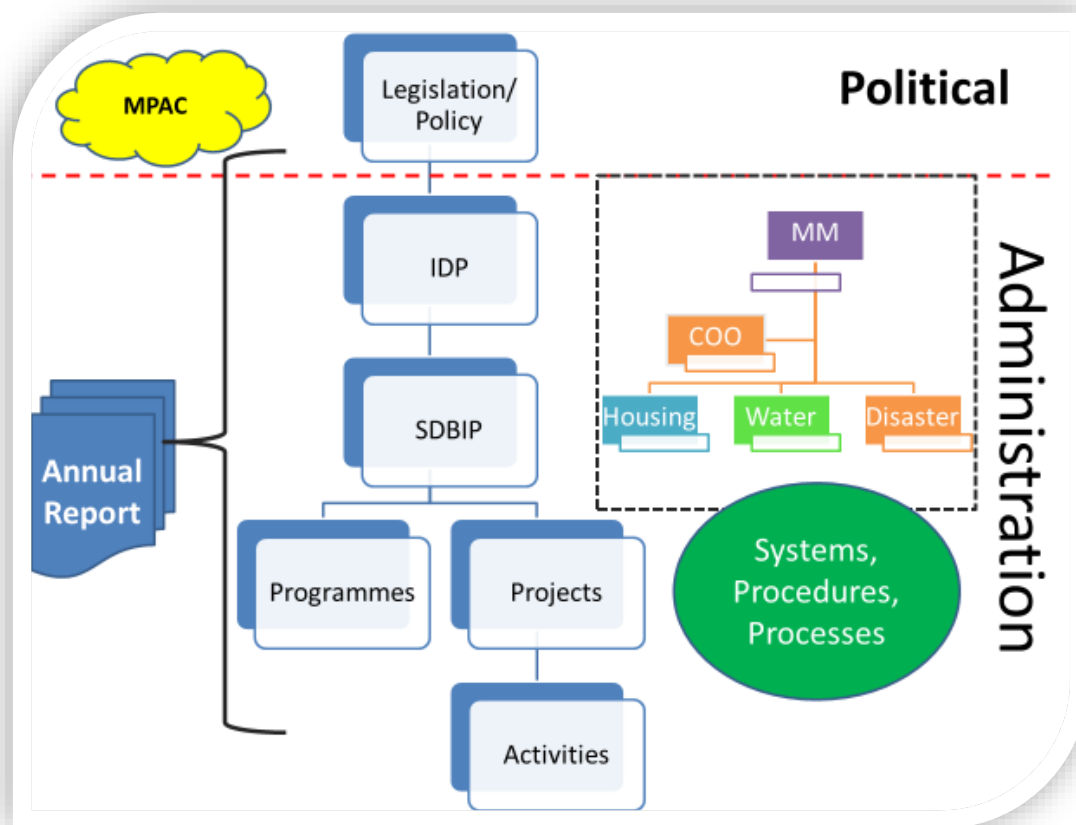
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Roles of MPAC	Roles of Finance Committee
<p>for the Oversight Report i.t.o. MFMA 127 & 129 (2)</p> <ul style="list-style-type: none"> ○ Consultation on the Annual Report with local community i.t.o. MFMA 127 (5) ○ Modification of Annual Report i.t.o. MFMA 127 (6) ○ In order to assist with the conclusion of matters that may not be finalized, information relating to disclosures, past recommendations made on the Annual Report, must also be reviewed i.t.o. MFMA 123-125 and MSA 46 (1). ○ To examine the performance related information based on the functions assigned to the municipality as they are aligned to the financial information; ○ The Audit Committee plays a role in examining the financial statements and audit reports of the municipality and municipal entities. The MPAC should be supported by the IA and Audit Committee in performing their functions, consider improvements from previous statements and reports i.t.o. MFMA 127 & 129; ○ To evaluate the extent to which the Audit Committee's and the Auditor-General's recommendations have been implemented and to make additional recommendations to council for further actions arising from these reviews, i.t.o. 131 (1); ○ To review and recommend to Council actions or otherwise relating to the expediting and conclusion of Unauthorised, Irregular Fruitless and Wasteful expenditure i.t.o. MFMA Sect 32 ○ To examine appropriate investigation reports, undertaken by others, such as the Internal Audit or Forensic reports, seek clarity from the Accounting Officer and recommend to Council further actions or write off i.t.o. MFMA Sect 32 (2) ○ The above to be dealt with consistently with criminal and disciplinary proceedings i.t.o. MFMA 32 (5) ○ MFMA Regulations for Financial Misconduct and Criminal Proceedings issued i.t.o. MFMA Sect 171-174 ○ The MPAC to use information provided by the Audit Committee i.t.o. MFMA Sect 166 	<ul style="list-style-type: none"> ○ Reviews reports in year to recommend reasonable steps to limit municipal budgets as approved; ○ Monitor and oversee the exercise of financial responsibilities assigned to the Accounting Officer and the Chief Financial Officer i.t.o. MFMA Sect 60-79 (AO) and Sect 80-83 (CFO) ○ submit reports to Council, within 30 days of the end of each quarter, on the implementation of the budget and the financial state of affairs of the municipality i.t.o. MFMA Sect 52 (d) ○ co-ordinate the annual revision of the IDP, prepare the annual budget to give effect to the IDP and spatial plans and determine how the IDP will be taken into consideration, or revised for the purposes of the budget i.t.o. MFMA Sect 53(1)(d) & Sect 34 MSA ○ ensure that a funded budget is approved by Council before the start of the budget year i.t.o. MFMA Sect 18 and 53 (1)(c) (i) ○ ensure the revenue and expenditure projections for each month and the service delivery targets and performance indicators for each quarter, as set out in the SDBIP, are made public within 14 days of approval of the SDBIP i.t.o. MFMA Sect 53 (3)(a) ○ check that budget implementation is being undertaken in accordance with the SDBIP and, approve the SDBIP within 28 days after the approval of the budget i.t.o. MFMA Sect 53(1) (c) (ii) ○ ensure that any revision of the SDBIP does not alter service delivery targets and performance indicators in the plan without the approval of Council after approving an adjustment budget i.t.o. MFMA Sect 54 (1) (c) ○ ensure that the public is informed of any revisions to the SDBIP i.t.o. MFMA Sect 54 (3) ○ issue appropriate instructions to the Accounting Officer to ensure budget implementation with the SDBIP and to ensure spending of funds and revenue collection proceeds in accordance with the budget i.t.o. MFMA Sect 54 (1) (d)(i) ○ Submit a report on the mid-year budget and performance assessment to council by 31 January each year i.t.o. MFMA Sect 54 (1) (f)

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Roles of MPAC	Roles of Finance Committee
<ul style="list-style-type: none"> ○ The annual work plan of MPAC should be synchronized with the overall council calendar. <p>MPAC to ensure there is no duplication of functions, responsibilities or duties that have been delegated to the Finance Committee in terms of the MFMA and MSA:</p> <ul style="list-style-type: none"> ○ Unforeseen and unavoidable expenditure – MPAC to receive information only on adjustment budget process (s29) to enable it to undertake its (MFMA sect 32) responsibilities- (avoid overlap with Finance Committee) ○ The submission of in-year reports by the Mayor on the implementation of the Budget/SDBIP – MPAC to receive information only to enable it to perform its role in Annual Report (MFMA s52(d)) - (avoid overlap with Finance committee) ○ Monthly budget statements – MPAC to receive information only (s71) (avoid overlap with finance committee) ○ Mid-Year budget information for information only (s72) (avoid overlap with finance committee) ○ Mid-year budget information of municipal entities for information only (s88) (avoid overlap with finance committee) ○ Support the compliance with any applicable standards of generally recognised accounting practice and uniform expenditure and revenue classification systems i.t.o MFMA Sect 2(c)(ii) mSCOA (guiding approach similar to Finance Committee) ○ The Municipal Manager is the accounting officer of the municipality and responsible for the general administration and execution of legislative functions of the municipality. ○ MPAC must ensure that it performs its functions in a manner that facilitates a smooth process whereby Council can take decisions on performance, write offs, recoverables, suspensions and related misconduct actions to conclude matters. 	<ul style="list-style-type: none"> ○ To review the performance of the municipality in order to ensure continued financial sustainability and improve: <ul style="list-style-type: none"> i) The Economic, efficiency and effectiveness of the municipality, ii) Efficiency of credit control and revenue and debt collection services, and iii) The implementation of the municipality's by-laws. ○ Identify financial problems facing the municipality i.t.o. MFMA Sect 54 (1) (e) & chapter 13 ○ Initiate remedial or corrective steps where financial problems are identified i.t.o. MFMA Sect 54 (2) ○ The Chief Financial Officer is in charge of the Budget and Treasury Office of the municipality and are to advise the accounting officer (MM) on the exercise of powers and duties assigned to the accounting officer i.t.o. MFMA Sect 80. ○ Are responsible for all financial aspects of the municipality i.t.o. MFMA Sect 81 (1) (e). ○ Finance Committee to ensure there is no duplication of functions, responsibilities or duties that have been delegated to the MPAC in terms of the MFMA and MSA ○ The Municipal Manager is the accounting officer of the municipality and responsible for the general administration and execution of legislative functions of the municipality. ○ Support the compliance with any applicable standards of generally recognised accounting practice and uniform expenditure and revenue classification systems i.t.o MFMA Sect 2(c)(ii) mSCOA (guiding approach similar to MPAC)
<p>Refer to MFMA Circulars for further guidance on the detailed disciplines.</p>	<p>Refer to MFMA Circulars for further guidance on the detailed disciplines.</p>

3.6 MPAC and Political and Administrative Interface



Much has been said about the aspect of separation of powers i.e. legislative and executive as part of MPAC’s role clarification. Another separation which MPAC needs to appreciate is that of the Political and Administrative interface.

Local government works in a more complex system as compared to National and Provincial Government. Since the Constitution designates the municipal council as the executive, it is essentially the employer of all municipal staff. Legislation has sought to separate council from the administration to some extent. The Municipal Systems Act mandates the municipal council to appoint senior managers (i.e. the municipal manager and managers that report to him or her, see s 82(1)(a) Municipal Structures Act and s56 Municipal Systems Act), and further appointments are made by the administration itself. The Code of Conduct for Councillors includes a provision that prohibits councillors from interfering in the administration (item 11 Schedule 1 Systems Act). Taking a harder line of separation, the Municipal Finance Management Act has barred councillors from taking part in tender decisions (s 117 MFMA) and includes many provisions that seek to separate the council from the administration¹. The

¹The political-administrative interface in South African municipalities assessing the quality of local democracies, Commonwealth Journal of Local Governance Special Issue March 2010: Commonwealth Local Government Conference Freeport, Bahamas, May 2009,

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document supporting the launch of the MFMA in 2003 also provided further clarification on the separation of responsibilities.

The above diagram illustrates the political administrative boundary, with respect to legislation/policy and planning and implementation (IDP, SDBIP etc.).

MPAC's are political in nature, having been appointed by the Council. MPAC's therefore would do well to guard against being perceived as interfering in the administration of the municipality and any processes relating thereto e.g. investigations.

In essence, an investigation is the collecting of evidence or facts which may result in:



MPAC's were never conceived to be investigative bodies nor do they have the requisite legal form or powers to conduct investigations. A formally taken statement for example must be commissioned –

The core of MPACs functions are to contribute to the governance of the municipality. Through its review of the annual report and various other reports, MPACs contribute to governance by providing assurance (on behalf of Council) on various issues pertinent to the Municipality and specifically the administration of the municipality. They also play a key role in making recommendations to council when matters of financial misconduct is addressed, noting that the regulatory framework for allegations of financial misconduct provides for a Disciplinary Board which is constituted by officials and not councillor.

<https://repository.uwc.ac.za/bitstream/handle/10566/1252/DeVisserPoliticalAdministrativeInterface.pdf?sequence=1&isAllowed=y>

3.7 Summary of key lessons for the MPAC

In order to exercise oversight over the executive, the MPAC should be constituted as a Section 79 committee rather than a Section 80 committee – in this way it answers to the council rather than the executive

In line with the above, oversight committees should not be assigned executive powers such as the formulation of policy and the framing of by-laws. Oversight includes the review of such procedures and oversight committees should not be placed in the position of being both player and referee, but can make recommendations. It must be noted that councillors serving on MPAC still have voting powers when attending council meetings, hence, they can still exercise their powers in council.

In keeping with its responsibility to manage council procedures and party relations, the Office of the Speaker is likely to be assigned some executive authority. While the Speaker may be required to exercise some control over the committees of council, this should not be applied in respect of the MPAC and its oversight role. To do otherwise is to blur the intended separation of executive and legislative authority.

Formally drafted and comprehensive terms of reference and delegation systems should be compiled as a single accessible resource. This helps to clarify the necessary separation of powers / functions and avoid unnecessary tensions arising from perceived incursions of authority and mandates.



MPAC members can attend other portfolio committees for the purpose of oversight however it must be clear that they are not member of the said committee and are granted the status of an observer and will not be allowed to participate or vote at such meetings.

MPAC chairperson should develop a working relationship with Chair of Finance Committee, where these exist. This will avoid duplication of effort and confusion in council when recommendations are brought forward for council adoption.

MPAC chairperson should also develop a working relationship with Chair of Audit Committee to enable a better understanding of other technical matters, both financial and non-financial (performance).

4. KEY QUESTIONS AN MPAC SHOULD ASK: PROBING INFORMATION IN REPORTS SERVING BEFORE THE MPAC

This tool provides an outline of the main topics that an MPAC will be required to deal with in its oversight duties and the questions that may be usefully posed to interrogate these matters. Some of the topics hereunder have been extracted from the *Annual Report Template* issued by National Treasury. They may of course be used for other reports containing similar information. Other questions emerge from the actual experience of MPACs in probing key issues.

It is also important to note that since MPAC is a committee of council it must be cautious not to interfere in the administration processes of a municipality, and would generally rely on reports submitted to it by the administration on the implementation and execution of its duties and functions. It is from these reports that it will derive its questions based on what was submitted to them. The reports submitted are usually on a quarterly basis and cover a host of topics which are then assessed against the required norm in terms of legislation, prescripts and what was achieved/ delivered by the administration. Questions outlined below are usually posed when there was a deviation from the norm or expected standard of performance by the municipality.

The questions listed below might also be used as an indication on how much detail the reports must have that need to be submitted dealing with the various administrative disciplines.

4.1 Governance Matters



4.2 Averting Conflict of Interests



Some questions to pose in the case of Declarations of interest

- Is there a policy in place governing the declaration of interests of employees and councillors of the municipality?
- Have all specified employees and councillors made the necessary declarations?
- Are all these declarations completely filled out? (leaving blank spaces in the declaration document, not signing the document correctly, writing illegibly may compromise the legal effect of declarations)
- Have the declarations been analysed and captured?
- Have potential and / or actual conflicts of interests been highlighted?
- What has the municipality done in relation to these potential and / or actual conflicts of interest of identified employees?
- Where declarations have not been made or where declarations remain incomplete, has any disciplinary action been taken against officials or councillors who have failed to provide same?

4.3 Risk Management

National Treasury's Public Sector Risk Management Framework provides for the implementation of an enterprise risk management framework for the entire public service. Added to this the MFMA in various sections (Section 62(1)(c)(i)) places a responsibility on the municipality to put in place systems that will identify and take appropriate steps to mitigate key risks within the institution.

Some key questions that may be posed:

- Has the municipality discharged all its MFMA other legislative obligations in relation to risk management?
- When was the last risk assessment undertaken by the municipality?
- Is there a risk register in place?
- Are risk mitigation plans in place to deal with the key risks within the municipality?
- Do the performance agreements of managers incorporate risk management and performance indicators as criteria for performance assessment?
- Who maintains and updates the systems of risk management within the municipality?
- Are the internal controls regularly monitored and updated?
- What is the status of the FMCMM assessments and how has the area of gaps been addressed?
- What is the status of progress made in addressing all audit findings and are they included in audit action plans?
- Are these monitored by Internal Audit and Audit Committee and what is their assessment of progress?
- What corrective actions have not been taken and why?

4.4 Improving Compliance with Laws and Regulations

In many instances municipalities have a series of strategies, plans and policies to deal with non-compliance with laws and regulations, fraud and corruption, however, implementation and follow through has been weak. The failure to attend to such matters in the administration and council on a timely basis would assist in improving compliance with laws and regulations and in reducing fraud and corruption or allegations thereof, or sending the key message that public funds must be utilised correctly. This has led to erosion of trust between municipality, its council and the public.

Some key questions which may be posed:

- Which policies and strategies are in place to deal with compliance with laws and regulations, fraud and corruption?
- Does the municipality have historical / baseline information regarding the extent of non-compliance, fraud and corruption in the organization?
- Are the strategies and plans to prevent non-compliance, fraud and corruption implemented and do we measure their outcomes?
- If no, then how do we know they are effective?
- If yes, then have we seen a decrease in the instances of non-compliance, fraud and corruption?
- Has the Disciplinary Board provided recommendations on all investigations and these reported to Council, provincial and national government as required by the MFMA regulations on Financial Misconduct?
- During the year under review, have there been any disciplinary measures and/or criminal prosecutions for instances of fraud and corruption relating to the municipality involving either, municipal councillors, officials and/or private individuals or companies?
- What has been disclosed in the AFS and Annual Report and is it adequate?
- What was the outcome of the processes listed above?
- What has the municipality done to recover losses resulting from fraudulent and corrupt activities?
- Have these recoveries and/or losses been recorded in the AFS?

4.5 Basic Services

This section in the Annual Report deals with the provision of water; waste water (sanitation); electricity; waste management; and housing services, roads and a summary of free basic services. This section details the extent to which the municipality has extended these services in the municipality for the year under review. A few examples of how this information is often set out:

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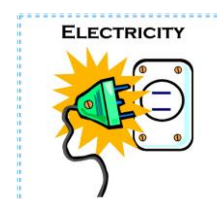
Sanitation



Annual performance as per Key performance indicator in sanitation services						
Indicator	Total number of household/customer expected to benefit	Estimated backlogs (actual numbers)	Target set for the Financial Year under review (actual numbers)	Number of Households/customer reached during the Financial Year	Percentage of achievement during the year	Major challenges and remedial action
Households with access to sanitation services	14495	1986	569	629	111%	None

Electricity provision

Annual performance as per Key performance indicator in Electricity Services						
Indicator	Total number of household or customers expected to benefit	Estimated backlogs (actual numbers)	Target set for the financial year under review (actual numbers)	Number of households or customers reached during the financial year	Percentage of achievement during the year	Major challenges and remedial action
Households with access to electricity services	169	0	169	250	148%	Lack of funding for electrification of rural area (formalised infill area).



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Above is one method which is used to illustrate the extent to which a basic service has been provided. Other formats used are more detailed and may provide comparisons with previous years. Current reforms provide for wider range of potential indicators to be used differently, depending on the powers and functions assigned to a municipality, its size and type.

Whichever method is used the following questions can be posed:

- Has the target for the period under review been reached?
- If not, what are the reasons for not achieving the targets?
- If the target has been reached what is the backlog that still requires elimination?
- How has the municipality arrived at the figures for backlogs?
- At the current pace of delivery and funding, when could we expect to eliminate the backlog?
- If the rate of delivery of the basic service is too slow to eliminate backlogs, then what do we need to do to accelerate delivery?
- Are conditional grants used effectively and what was the spending levels?
- If there was underspending on grants provided for service delivery, what is the reasons for the underspending and what recommendations have been provided to improve performance?

4.6 Policy on indigents, credit control and collection levels

Many municipalities have experienced challenges related to the veracity and the integrity of the indigents register (persons who are receiving free or subsidized services.)

Some questions which may be posed, are as follows:

- Has the indigent policy been applied according to its original terms and prescripts and has any part of the policy been changed or waived?
- How much of the equitable share go towards funding for the indigent?
- Explain the difference between what was allocated by national government and what was allocated by the municipality?
- What percentage of own funds in the municipal budget has been allocated to fund the indigent policy?
- How does this percentage compare to previous years?
- Have the indigent registers been updated and when? Has the actual number of indigents increased or decreased? What are the reasons for such an increase/decrease?
- What measures are in place to verify and validate indigent information to ensure integrity of information in the indigent register?
- Is credit control being applied regularly as per council policy?
- Is collection levels on own revenues increasing or decreasing and what are the reasons and corrective actions taken?
- What is the turnaround time for customer complaints on service billings?

4.7 Extended Public Works Programme / Community Works Programme

Some questions which may be posed, are as follows:

What screening measures are being applied in respect of persons accessing work opportunities through the EPWP / CWP?



How many persons participate in the EPWP / CWP currently and in comparison, to the previous year? What percentage of the overall economically active population of the municipality participates in the EPWP / CWP?



4.8 Service delivery per municipal function (Components B-H)



In the Annual Report Template, information in this section is set out as follows:

1. Introduction
2. Employees in the respective functions
3. Budgets and expenditure for the functions
4. Performance of the respective functions
5. Challenges experienced by the functions

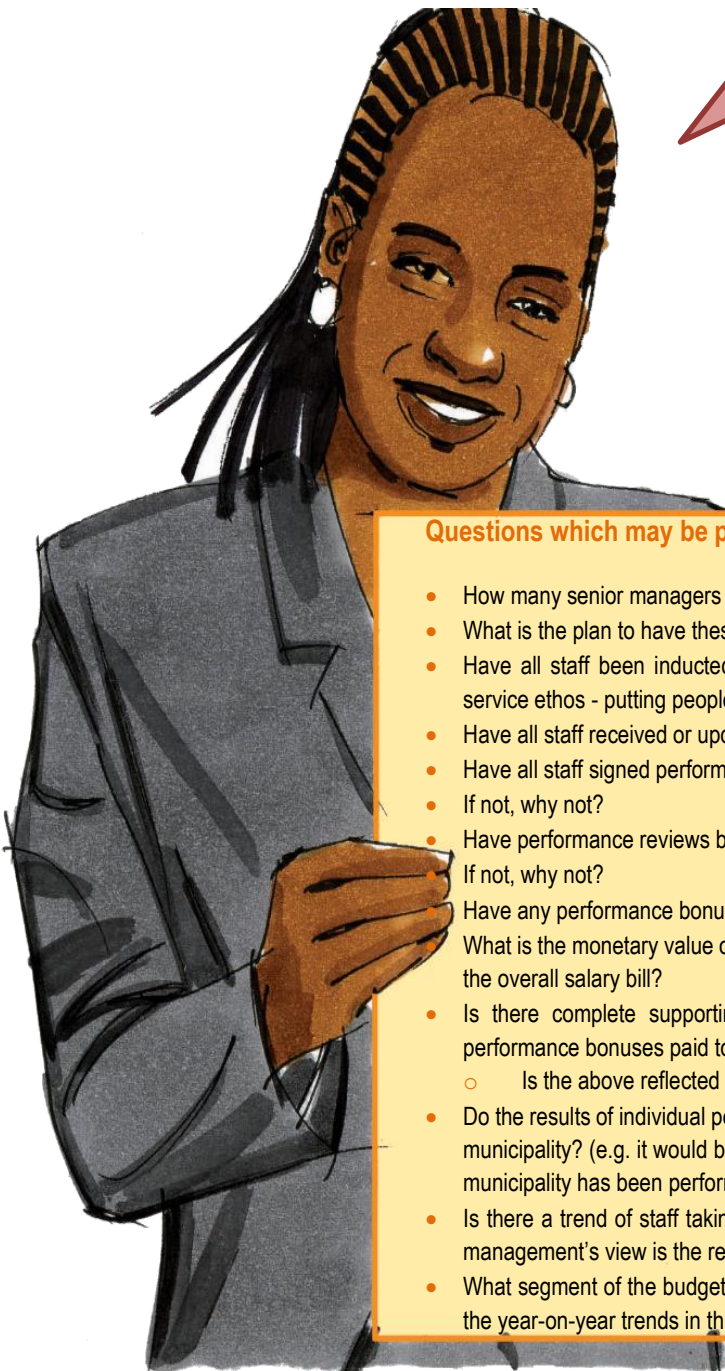
Some questions which may be posed, are as follows:

- What are the factors that have influenced the specific targets that have been set for the function?
- How do these targets relate to the broader population or geographic area of the municipality?
- What is the urban/peri-urban/rural split (rand value of projects and services) of services being rendered?
- Do the respective functions advance the SDBIP and ultimately the IDP in the manner and scale in which services are being delivered?
- Have the delivery targets been met?
- If not, why not?
- If yes, what have we learnt that would allow us to accelerate delivery?
- What is the rate of service delivery in relation to previous years?
- Are there any backlogs in the respective functions?
- At the current rate of delivery, when will backlogs be eradicated?
- What do we need to do to accelerate services in this functions?
- Are there sufficient staff members to perform the functions? (check vacancy rates)
- If not, why not?
- Is the operational budget for delivery sufficient? (Check variations)
- Please explain the correlation between the number of vacant posts in specific departments and the over-time payments incurred by these departments?
- What is the views of Ward Councillors on the content of the Annual Report relating to their own wards?
- If there were community protests as a result of service delivery, how was this addressed?
- What commitments were made to the community?

A subset of questions which may be posed, relates to by-laws:

- Have by-laws been reviewed within the various functions? If so, when? If not, why not?
- Are all by-laws effectively being enforced in the Municipality?
- If not, which by-laws are not actively being enforced and why?
- What is the revenue generated through the various by-law enforcement activities?

4.9 Managing the Municipal Workforce



This section deals with the Performance Management System and HR System within the municipality.

Questions which may be posed here are as follows:

- How many senior managers position are vacant and for how long?
- What is the plan to have these critical leadership positions filled?
- Have all staff been inducted (council policies) and have they attended sessions on public service ethos - putting people first?
- Have all staff received or updated job descriptions?
- Have all staff signed performance agreements?
- If not, why not?
- Have performance reviews been instituted?
- If not, why not?
- Have any performance bonuses been awarded?
- What is the monetary value of performance bonuses and what percentage is that in relation to the overall salary bill?
- Is there complete supporting performance assessment documentation in respect of all performance bonuses paid to managers and other staff?
 - Is the above reflected in the performance reports of the respective departments?
- Do the results of individual performance reviews mirror the overall delivery performance of the municipality? (e.g. it would be hard to justify excellent performance reviews for staff when the municipality has been performing poorly overall) If not, why not?
- Is there a trend of staff taking an increasing number of days of sick leave and if so, what in management's view is the reason for this? What is being done about it?
- What segment of the budget do employee costs constitute in percentage terms and what are the year-on-year trends in this regard?

The section may also deal with suspensions or dismissal of staff. Questions which may be raised here are as follows:

- How many staff members are on suspension and for how long?
- How many suspensions exceed the time limits as provided for in the policies?
- Should there be staff members who are on suspension for longer than the policy provides for - Why?
- What is the value of salaries that are being paid to staff on suspension?
- At what stage are the disciplinary processes / investigations against the officials currently on suspension?
- What measures are in place to ensure that disciplinary processes / investigations are finalized without delay?

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In the case of dismissals these questions may be posed:

- Was any staff member dismissed during the period under review?
- On what grounds were the staff member/s dismissed?
- Was due process followed leading up to the dismissal?
- If they were dismissed for fraud/theft – has the municipality taken steps to recover monies lost because of the actions of dismissed employees?
- If not, why not?

Matters referred to the CCMA or Labour Court

- What is the win/loss ratio for the municipality in relation to conciliation, mediation or arbitration of disputes with employees?
- What do these figures say about the municipalities internal systems and processes for disciplining staff and overall consequence management in the institution?

In the case of employees on contract:

- How many contract staff have fixed term contracts with the municipality?
- How many contract staff were employed on month-to-month contracts?
- What is the monthly wage bill for all contract staff currently employed by the municipality?
- Why have contract staff been appointed?
- Are there instances in which consultants are appointed to tasks because posts are vacant?
 - Please describe the number and circumstance of these appointments?
 - Are there instances where consultants are employed to perform tasks that fall within the ambit of existing posts that are filled? If so, Why?

What is the plan to reduce contract staff over the medium term?

4.10 Annual Financial Statements

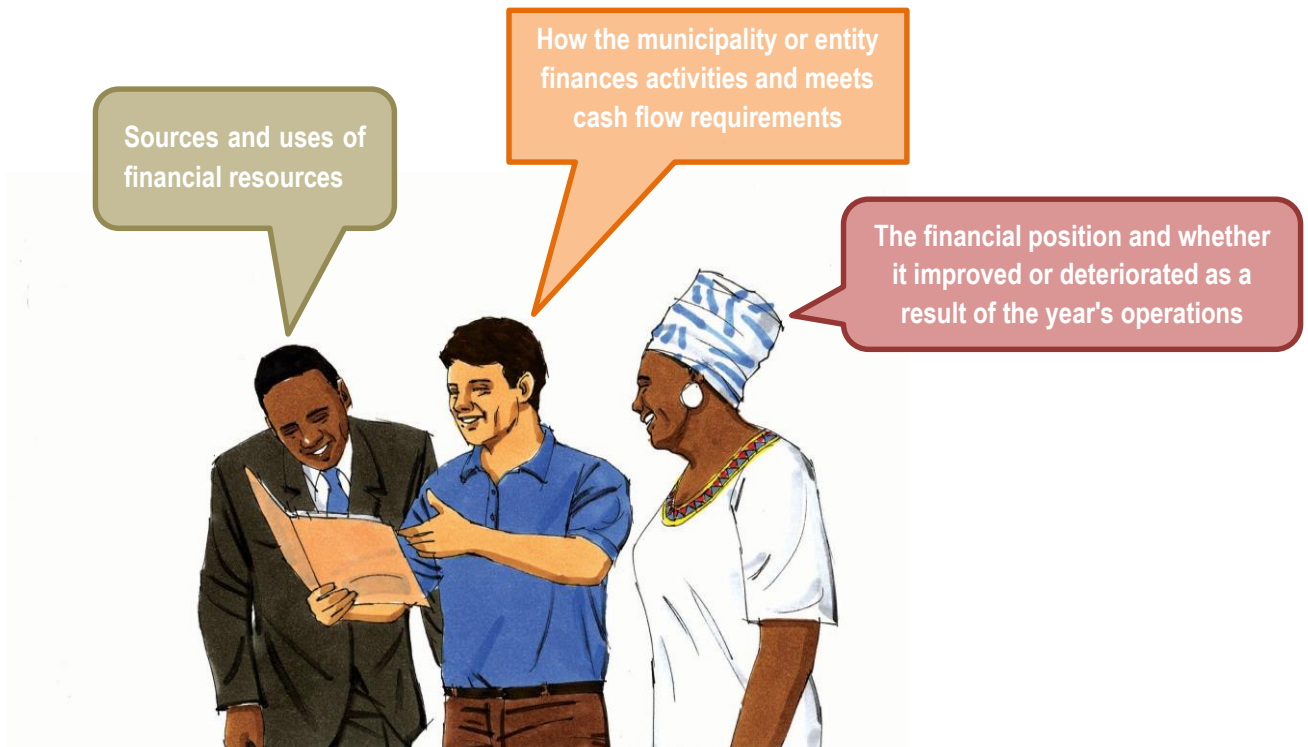
To assist the municipality to be publicly accountable and present information that -



Shows whether current year revenues were sufficient to meet the cost of providing current year services

Demonstrates whether resources were obtained and used in accordance with the municipality's or entity's legally adopted budget, and in compliance with other finance-related legal or contractual requirements

To assist users to evaluate the operating results by presenting information about –



To assist users to assess the level of services that were provided and whether it met obligations as they become due by providing information about -

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- its financial health – what does the calculation of the 32 national indicators reflect for our municipality and how are those indicators outside the norm being attended to (see MFMA Circular 71)
- physical and other non-financial resources that extend beyond the current year, including information that can be used to assess the potential of those resources
- legal or contractual restrictions on resources and the risk of potential loss of resources.

The AFS consists of the following components:

The **Consolidated Statement of Financial Position** is a statement that reports on:

- assets – what the municipality owns or controls
- liabilities – what the municipality owes
- net financial assets/net debt – liabilities minus financial assets
- accumulated surplus – what remains after the assets have been used to meet the liabilities? These remaining assets will be available to provide services to future periods.

The **Consolidated Statement of Financial Performance** is a statement that reports on:

- revenues
- expenses
- results for a fiscal year or reporting period.

The **Consolidated Statement of Change in Net Financial Assets (Net Debt)** is a statement that:

- explains the difference between the annual surplus or deficit and the change in net financial assets (net debt)
- reports spending to acquire tangible capital assets and inventories of supplies
- reports disposal of tangible capital assets and the use of inventory.

The **Consolidated Statement of Cash Flow** is a statement that provides details on changes in cash and cash equivalents since the previous reporting period by:

- identifying where cash came from
- showing how cash was used.

The **Variations between budgeted and actual amounts** in the above statements provides:

- Details of budgets and actual amounts
- The reasons for variations, should those variations be material

Some pointers and questions which may be posed in relation to the AFS are as follows:

- Councillors should review the disclosures to the AFS as these contain much detail that underpin and explain what is in the AFS.
- Councillors should review the audit opinion as provided by the Auditor-General.
- Councillors should request from the administration any comments received by the Audit Committee, Provincial or National Government.
- How adequate are the municipalities' internal controls [in general/over the Income, Expenditure and Cash Flow area]?
 - Is there adequate segregation of duties?

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- Have the auditors made any recommendations for improvements in controls? What were they? Why weren't these problems discovered and fixed before the auditors noticed them?
- Have these recommendations been implemented? If not, why not?
- Why did Income or Revenue [increase/decrease] so much from last year?
 - Are our key sources of revenue rising or falling (either in Rand terms or as a percentage of the total), and why? Same for types of expenses -especially personnel costs.
 - Are our key sources of expenditure rising or falling (either in Rand terms or as a percentage of the total), and why?
- Do we use the budget as a management tool for early warning of impending problems and action required, evaluation of management performance, identification of opportunities, etc.?
- Are there any liabilities which have not been recorded? Why not?
- What is our spending percentage (in relation to overall spend) for:
 - Operating Budget?
 - Capital Budget?
 - What are the reasons for the over/under spending for the above?
 - What steps are being taken to ensure that this over / under spend does not recur?
- What is the spending on repairs and maintenance? (should be around 8% of total fixed assets spend i.e. For every R10 spent on building/replacing infrastructure, R0.80 should be spent every year on repairs and maintenance.)
 - Is this spend sufficient for proper repair and maintenance of assets?
 - If not what steps are being taken to ensure that proper provision is made for repairs and maintenance?
- What is in the category identified as “miscellaneous”, “other” or “general” [income, expense, assets, liabilities]?
- Do you believe that our accumulated surplus is adequate? If not, what are we doing about it?
- Are we better or worse off financially than we were a year ago? Why?
- Are there any concentrations of credit / debt risk?
- The AFS shows several variances. Does this not indicate a lack of cohesive planning or lack of proper risk management?
- What steps have been taken to ensure adequate ICT security in the organization? (This is especially important where organizations conduct all or most of its transactions via the Internet)
- How has the municipality managed improved austerity measures?
 - Was the municipality able to realise savings as a result of austerity measures?
 - If yes, where were those savings utilized?
- Please quantify and explain the extent of arrears / non-payment on properties and land owned by the municipality including housing rental stock.
- Have any debts been written off?
 - If so what are the circumstances?
 - Were the write-offs done in compliance with the applicable municipal policy?

Questions when dealing with Unauthorised, Irregular or Fruitless and Wasteful expenditure

- To what degree has section 32 of the MFMA been complied with in respect of:
 - Unauthorised expenditure in the current and prior years
 - Irregular expenditure in the current and prior years

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- Fruitless and wasteful expenditure in the current and prior years
- What is the value of the expenditure within each category?
- What was the root causes of the expenditure in each instance?
- What measures were already taken by the municipality to recover the expenditure?
- What was the cost of the measures already taken to recover such expenditure?
- What is the estimated cost and likely benefit of further measures that can be taken to recover such expenditure?
- Was any official identified for having potentially committed financial misconduct as defined in section 171 of the MFMA?
- If so, was the matter referred for further investigation in terms of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings?
- Was the matter also referred to the South African Police Services for criminal investigation as required in terms of section 32(6) of the MFMA read with the Regulations referred to above?
- What plans has the accounting officer put in place to ensure that the internal control within the municipality is improved to encourage in-year detection of non-compliance with laws and regulations and unauthorised, irregular, fruitless and wasteful expenditure?
- Were the necessary disclosures to the Mayor, the MEC for Finance in the Province and the Auditor-General made upon the discovery of the expenditures, in terms of the MFMA?
- Have all instances of these expenditures been reflected in the AFS?

4.11 Supply Chain Management

This area of municipal procurement is usually compromised where instances of irregular expenditure have been discovered. Lapses in the proper processes in SCM results in several consequences which may initially be discovered as irregular expenditure. Wasteful expenditure may also result from an abuse of the SCM system in order to move funds from within the municipality to external suppliers of the municipality through e.g. inflation of quotes etc. Failures in this area often results from weak internal controls, non-compliance with tender processes and procedures and record keeping. These serve as evidence for audit purposes. MPAC need to be careful when engaging on SCM matters noting the MFMA requirements on interference in SCM

Some questions which may be considered are as follows:

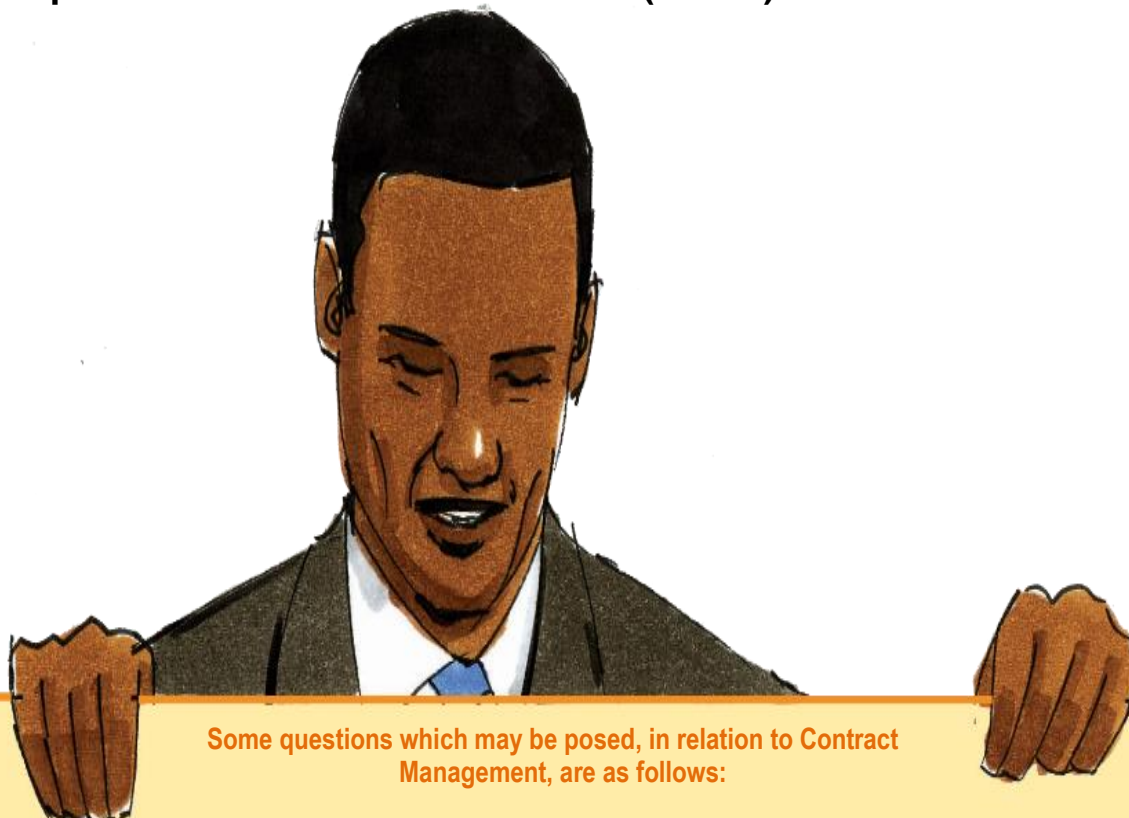
- Have all staff within the SCM Unit completed declaration forms?
- Have all members of SCM committees completed declaration forms?
- Has the information in the declaration forms been verified? Are supplier declarations vetted against internal SCM staff and SCM committee members?
- Was the 3 bid committees properly constituted? If not, why not and what steps are being taken to rectify the non-compliance?
- Kindly provide a breakdown of contracts awarded through (i) petty cash purchases, (ii) written or verbal quotations, (iii) formal written price quotations and (iv) competitive bidding?
- How many contracts were awarded for the financial year ending .. June 20...? What was the total combined value of these awards? Please break it up per commodity procured.
- Of the amount of contracts awarded for the financial year ending June 20....., in how many instances was the provisions of regulation 36 of the Municipal Supply Chain Management Regulations utilised including the basis or reasons for not following a competitive bidding process in each instance?
- Was the reasons accepted and approved by the accounting officer? If so, provide us with the written approval provided by the accounting officer?
- Was the reasons for deviation in terms of regulation 36 tabled at the **first** meeting of Council after the event? If so kindly provide us with written proof of tabling in council including any comments from Council, if any, and how such was addressed by the accounting officer?
- Were the reasons for deviation included in the notes to the annual financial statements? If so, kindly provide us with the note and page number in the annual financial statements where this can be obtained and verified?
- Of the amount of contracts awarded for the financial year ending June 20....., in how many instances was the provisions of regulation 32 of the Municipal Supply Chain Management Regulations utilised including the basis or reasons for not following a competitive bidding process in each instance?
- Confirm whether the contract which was concluded by the other organ of state was procured via a competitive bidding? If so, kindly provide written proof to this effect?
- If the other organ of state did not follow a competitive bidding process in appointing the service provider, but the accounting officer still proceeded in utilising the provision, kindly provide reasons why this provision was utilised despite this being an inherent requirement of regulation 32?
- Kindly provide the written report submitted to the accounting officer demonstrating the discounts and benefits to be derived by the municipality in utilising this specific contract? If this was not submitted as part of the legislative process in requesting approval from the accounting officer, please explain on what basis was the cost benefit analysis made?

Some questions which may be considered are as follows: (Cont.)

- Kindly provide the written report submitted to the accounting officer demonstrating the discounts and benefits to be derived by the municipality in utilising this specific contract? If this was not submitted as part of the legislative process in requesting approval from the accounting officer, please explain on what basis was the cost benefit analysis made?
- Was the written consent obtained from both the other organ of state and the service provider for the municipality to participate in the contract? If so, provide proof of such consent, if not, why not?
- Of the amount of contracts awarded for the financial year ending June 20....., in how many instances was awards made to persons in the service of the state as prohibited by regulation 44 of the Municipal Supply Chain Management Regulations?
- Of the awards made to persons in the service of the state, how many were in the employ of the municipality? Were the necessary declarations made by these employees as required by the Code of Conduct for staff in the Municipal Systems Act? If not, why not and if so, why it was not detected during the bid evaluation process.
- Is the municipality making use of the national governments Central Supplier Database, if not why not?
- Confirm what disciplinary and criminal processes were initiated against those members of the Bid Evaluation Committee in terms of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings for failure to detect and verify the declaration made? If not, why not, if so, what is progress to date?
- Confirm what disciplinary action was initiated against those officials who failed to make the necessary declaration of interest in terms of the Code of Conduct for Staff in the Municipal Systems Act? If not, why not, if so, what is progress to date?
- Have any construction projects been approved that were not registered with the Construction Industry Development Board (CIDB)? What is the reason for this divergence?
- Confirm how many objections and complaints were lodged by aggrieved bidders in terms of regulation 49 of the Municipal Supply Chain Management Regulations and how many was resolved in terms of regulation 50 of the Municipal Supply Chain Management Regulations? In each instance, state date objection or complaint lodged and date finalised including resolution taken?



Linked to SCM is the issue of contractors and their management. The Auditor-General has on several occasions made reference to the fact that Municipalities are not extracting the full value of services where contractors are concerned. This is especially problematic when it is these contractors who must ultimately provide many of the basic services required by citizens of the municipality.










Some questions which may be posed, in relation to Contract Management, are as follows:

- Are all contractors to the municipality rendering services in relation to a properly signed contract?
- Have all contracts or template contracts used by the municipality, been legally vetted?
- Do all contracts contain a clear set of indicators, targets and/or deliverables to which the contractor must respond to?
- Have the end-user departments in the municipality signed-off on the contract including its deliverables, targets and indicators?
- What is the process for managing contracts within the municipality?
- Is this process adhered to for each contract?
- How many contractual disputes exist between suppliers and the municipality?
- What are the main reasons for the disputes?
- Are any of these reasons indicative of systemic or other challenges in the SCM process?
- How many disputes are currently the subject of litigation?
- What are the costs involved in the litigations thus far?
- Which projects are negatively affected by litigation and or disputes?
- What is the value of those projects?
- Have communities been made aware of the disputes and/or litigation in relation to projects in their areas?
- What has the municipality done to seek alternative dispute resolution mechanisms to address disputes?
- What percentage of suppliers (in relation to total rand value) has been paid outside of the 30 days of invoice provision?
- What are the reasons for late payments?
- Do these reasons indicate any systemic or other challenge being experienced in the SCM or Finance Section of the Municipality?

Is there a plan in place to ensure that all suppliers are paid within 30 days of invoice?



4.12 Auditor-General Reports: Types of Audit Opinions

<p>Clean Audit Outcome</p> 	<p>The Financial Statements are free from material misstatements (in other words, a financially unqualified audit opinion) and there are no material findings on reporting on performance objectives or non-compliance with legislation</p>
<p>Financially Unqualified Audit Opinion</p> 	<p>The financial statements contain no material misstatements. Unless there is a clean audit outcome, findings have been raised on either reporting on predetermined objectives or non-compliance with legislation or both these aspects</p>
<p>Qualified Audit Opinion</p> 	<p>The financial statements contain material misstatements in specific amounts, or there is insufficient evidence to conclude that specific amounts included in the financial statements are not materially misstated.</p>
<p>Adverse Audit Opinion</p> 	<p>The financial statements contain material misstatements that are not confined to specific amounts, or the misstatements represent a substantial portion of the financial statements.</p>
<p>Disclaimer of Audit Opinion</p> 	<p>The auditee provided insufficient evidence in the form of documentation on which to base an audit opinion. The lack of sufficient evidence is not confined to specific amounts or represents a substantial portion of the information contained in the financial statements.</p>
<p>The Audit of reporting on predetermined objectives</p> 	<p>Legislation requires auditees to report against their predetermined objectives and to submit such annual performance reports for auditing. The objective of the audit of predetermined objectives is to determine whether the reported performance against the auditees' predetermined objectives in the annual performance report is useful and reliable in all material respects, based on predetermined criteria. This means that the reported performance information must be valid, accurate and complete.</p>
<p>The Audit of Compliance with Legislation</p> 	<p>Legislation sets out the activities that auditees are charged with in serving the citizens and stipulate any limits or restrictions in such activities, the overall objectives to be achieved, and how due process rights of individual citizens are to be protected. Municipalities are subject to legislation such as the Municipal Finance Management Act and the Municipal Systems Act of which the objectives are proper financial management and performance management, transparency, accountability, stewardship and good governance.</p> <p>The Public Audit Act requires the Auditor-General to audit compliance with legislation applicable to financial matters, financial management and other related matters each year. Material instances of non-compliance are reported in the audit report.</p> <p>To enhance accountability, auditees must identify and fully disclose any unauthorised, irregular as well as fruitless and wasteful expenditure incurred. In most part, such expenditure is incurred as a result of non-compliance with legislation.</p>

4.13 Auditor-General Reports: Report on the Financial Statements: Preceding Year



This part of the Annual Report refers to findings made by the Auditor-General during the previous year. These are important in that they seek to assess the extent to which the municipality has addressed findings from previous years so that ultimately the findings do not recur.

The Auditor-General also comments on the validity of performance information. The Auditor-General therefore also make findings on the veracity of performance information.

The progress made on addressing the Auditor-General previous findings can be addresses by monitoring the implementation of the previous year's Audit Action Plan and the progress thereof, to which the questions below would be useful.

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Some questions to pose here may be as follows:

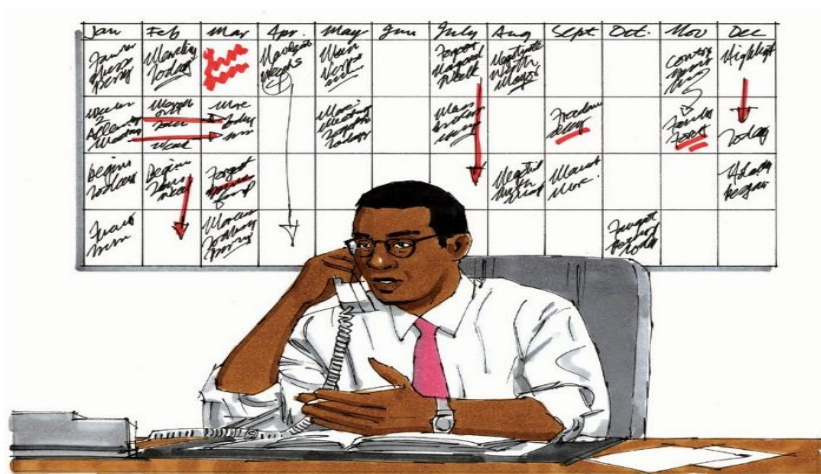
- Has the municipality conducted an in-depth analysis of the previous findings with a view to establish the root causes of the findings?
- What role has Internal Audit played in monitoring same?
- Has the municipality developed a plan to address all the root causes of findings of the Auditor-General?
- How has the municipality implemented and monitored the plan?
- Has the municipality ensured that the issue of dealing with Auditor-General findings are reflected and assessed in the performance agreements of managers?
- Is the municipality confident that its measures to address root causes will result in the resolution of the findings and that the findings will not recur?
- Is there any consequence management that has been applied to any officials who have failed in their duties to remedy previous findings of the Auditor-General?

4.14 Auditor-General Reports: Report on the Financial Statements: Current Year

The Audit Opinion issued by the Office of the Auditor-General has the potential to assist MPAC address many issues relating to the financial governance of the municipality. Central to the MPAC oversight are the matters to be dealt with when there was unauthorised, irregular, fruitless and wasteful expenditure identified. This report should also to be read in conjunction with the Audit Committee Report. The current-year report of the Auditor-General may have new matters raised as well as matters that have recurred from previous years. New matters raised by the Auditor-General may be quite varied from one municipality to another. This aspect must be dealt with from both a financial and non-financial view point.

Where certain findings are recurring year-on-year these questions may be posed:

- Have all the issues raised in the Management Report been attended to?
- Is the municipality confident that it has properly analysed and determined the root causes of the recurrent findings?
- Has the municipality developed a proper and detailed plan and activities to address the root causes?
- Has additional internal or external expertise (e.g. Provincial Treasury, National Treasury) been sought to assist in the development of the plan?
- How has the Financial Management Grant received from National Government been used?
- What steps have been taken to ensure full implementation?
- What could have been done better?
- Was there any consequence management applied to any officials who had failed in performing their duties to remedy previous findings of the Auditor-General?

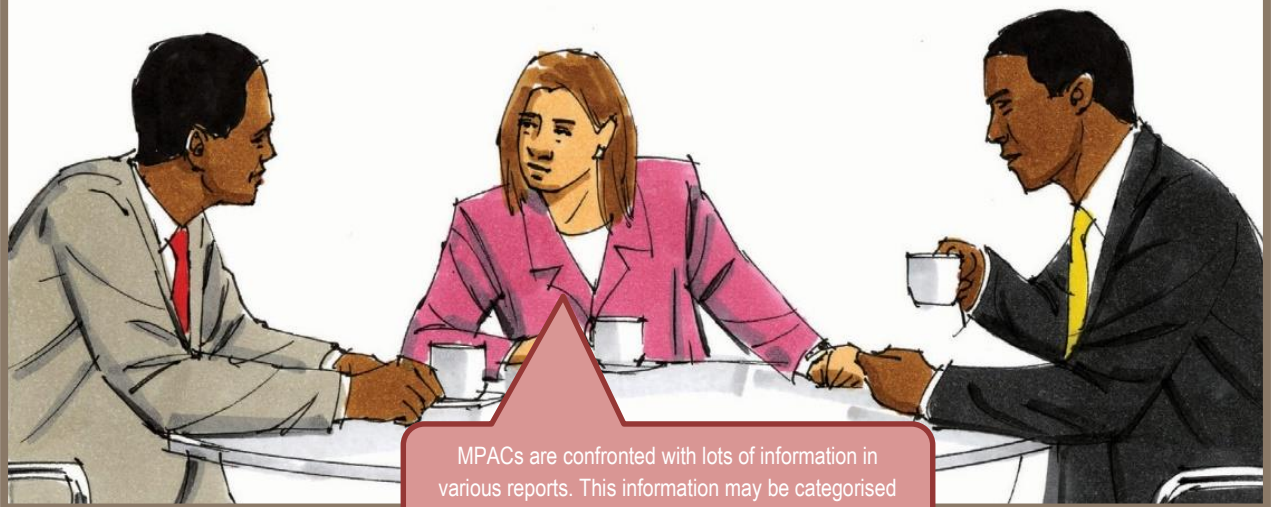


5. MPAC FINANCIAL AND NON FINANCIAL - SCOPE OF WORK



What do we mean by Financial and Non-Financial information?

What Types of Information is the MPAC likely to be called upon to consider



MPACs are confronted with lots of information in various reports. This information may be categorised broadly as financial and performance information.

5.1 FINANCIAL INFORMATION



Financial information is provided in a number of documents and formats forming part of the reporting role of the executive. Financial information is primarily found in:

- Financial Statements – this the most formal form of reporting financial information. There are specific formats and rules relating to the way finances should be set out and reported on. *“Municipal financial statements report on financial activities and balances. They help ensure accountability and transparency, and assist municipalities with long-term and strategic planning. Financial statements are an important tool for a municipal council and administration to use to report to the taxpayers on the municipal services provided with the resources at their disposal.”* <http://www.mah.gov.on.ca/Page15026.aspx>
- Service Delivery and Budget Implementation Plan (SDBIP) The SDBIP is a management and implementation tool, which sets in-year targets, such as quarterly service delivery and monthly budget targets. But it does much more than this. It also links each service delivery output to the budget of the municipality, and provides credible management information and a detailed plan for how the municipality will provide these services, as well as the inputs and financial resources to be used.
- Monthly and quarterly reports which contain extracts of financial and performance information drawn from the financial statements and the SDBIP.
- Municipal Standard Chart of Accounts that provide a uniform classification system for municipal reporting.
- Financial statements represent management's assertions about the municipality's or municipal entity's finances. Financial statements are taken from the accounting records of the municipality or municipal entity. The annual financial statements of a municipality or municipal entity present the financial position at the end of the financial year: assets (the amount owned by the municipality or entity) and liabilities (the amount owed) resulting in net assets (or community wealth). The annual financial statements provide information about the financial position, financial performance, cash flows and changes in net assets or liabilities of a municipality or a municipal entity that is useful to a wide range of users. Financial statements also show the results of the stewardship of management, and the accountability of management for the resources entrusted to it.

The objectives of annual financial statements are:

To assist the municipality to be publicly accountable and present information that:

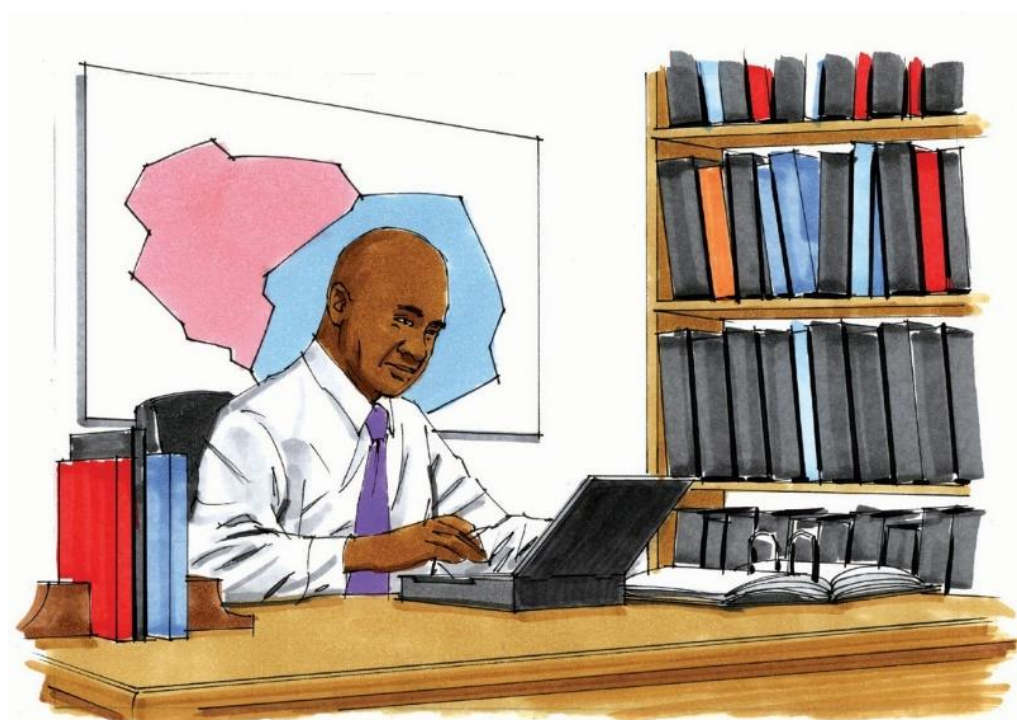
- shows whether current year revenues were sufficient to meet the cost of providing current year services
- demonstrates whether resources were obtained and used in accordance with the municipality's or entity's legally adopted budget, and in compliance with other finance-related legal or contractual requirements
- assists users to assess service efforts, costs, and accomplishments of the municipality or entity.

To assist users to evaluate the operating results by presenting information about:

- sources and uses of financial resources
- how the municipality or entity finances activities and meets cash flow requirements
- the financial position and whether it improved or deteriorated as a result of the year's operations.

To assist users to assess the level of services that were provided and whether it met obligations as they become due by providing information about:

- its financial health (see Circular 71 on 32 Indicators)
- physical and other non-financial resources that extend beyond the current year, including information that can be used to assess the potential of those resources
- legal or contractual restrictions on resources and the risk of potential loss of resources.



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5.2 PERFORMANCE INFORMATION

The MPAC is likely to be required to check performance information that is provided usually in tabular form with some or all of the following columns:

Ref	KPI	Unit of Measurement	Area	Actual Performance of 2014/15	Overall Performance 2015/16						
					Targets					Actual	
					Q1	Q2	Q3	Q4	Annual		
TL3	Number of people from employment equity target groups that will be appointed in the three highest levels of management in compliance with a municipality's approved employment equity plan	Number of people that will be appointed in the three highest levels of management in compliance with a municipality's approved employment equity plan	All	1	0	0	0	0	0	0	5

These tables provide performance information in a manner which allows the reader to quickly draw conclusions as to whether the targets set have been achieved. All information reported must be supported by evidence for audit purposes.

The importance of reporting on performance information is to ensure that:

- The municipality is progressively realising its service delivery goals** (Illustration of a man in a blue shirt)
- That performance information tracks the progress of implementation against the service delivery targets as set in the SDBIP and ultimately the IDP** (Illustration of a man in a suit)
- That the budgets and funding allocated for service delivery has been properly expended** (Illustration of a woman with glasses)
- That in relation to performance and expenditure, there has been value for money for the citizens of the Municipality** (Illustration of a woman in traditional attire)

5.3 GOOD PRACTICE

Some of the useful methods for considering and processing information that comes before MPAC are as follows:

- All reports received by MPACs should have the necessary signatures and verifications. This is an important part of the process to ensure that oversight is conducted on the correct document (as opposed to a draft or an earlier version) and that a responsible person (author of the document) is clearly identified.
- That the contents of the reports are clearly outlined and align with the templates and guidelines provided by NT through the circulars which it issues from time to time.
- That all annexures, addenda or supporting documents to the main report are clearly marked as such.
- As a committee, it may be useful to divide the report into sections which sections are then distributed to members of the Committee.
- During consideration of the report, members may wish to raise questions of clarity or probe a specific aspect. Such requests for further information should be clearly articulated. It is good practice to provide these questions to officials beforehand and affording them sufficient time to provide written and/or oral responses to MPAC.
- Members of MPAC should not disregard their own life experiences during the oversight processes. If members are active in their community, they can relate reports to what is happening in the community, and to align these. Much has been stated around financial information and performance information and how to assess these. Members should not forget the importance of logic in their understanding of reports. Figures and performance information aims to tell a story regarding the organisation's sustainability. In life, some stories are too good to be true and so we question them. On other occasions the story is only half told and so we probe and find the outstanding information to generate a full picture. Be guided by your own life experiences in assessing the story you are being told.

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5.4 SOME KEY DEFINITIONS AND PROCESSES

5.4.1 Financial Misconduct

Financial misconduct by municipal officials

- The accounting officer of a municipality commits an act of financial misconduct if that accounting officer deliberately or negligently-
 - contravenes a provision of this Act;
 - fails to comply with a duty imposed by a provision of this Act on the accounting officer of a municipality;
 - makes or permits, or instructs another official of the municipality to make, unauthorised, irregular or fruitless and wasteful expenditure; or
 - provides incorrect or misleading information in any document which in terms of a requirement of this Act must be-
 - submitted to the mayor or the council of the municipality, or to the Auditor-General, the National Treasury or other organ of state; or
 - made public.
- The chief financial officer of a municipality commits an act of financial misconduct if that officer deliberately or negligently-
 - fails to carry out a duty delegated to that officer in terms of section 79 or 81(1)(e);
 - contravenes or fails to comply with a condition of any delegation of a power or duty in terms of section 79 or 81(1) (e);
 - makes or permits, or instructs another official of the municipality to make, an Unauthorised, irregular or fruitless and wasteful expenditure; or
 - provides incorrect or misleading information to the accounting officer for the purposes of a document referred to in subsection (1) (d).
- A senior manager or other official of a municipality exercising financial management responsibilities and to whom a power or duty was delegated in terms of section 79, commits an act of financial misconduct if that senior manager or official deliberately or negligently-
 - fails to carry out the delegated duty;
 - contravenes or fails to comply with a condition of the delegated power or duty;
 - makes an unauthorised, irregular or fruitless and wasteful expenditure; or
 - provides incorrect or misleading information to the accounting officer for the purposes of a document referred to in subsection (1) (d).

A municipality must

- investigate allegations of financial misconduct against the accounting officer, the chief financial officer, a senior manager or other official of the municipality unless those allegations are frivolous, vexatious, speculative or obviously unfounded; and
- if the investigation warrants such a step, institute disciplinary proceedings against the accounting officer, chief financial officer or that senior manager or other official in accordance with systems and procedures referred to in section 67 of the Municipal Systems Act, read with Schedule 2 of that Act. 3 of the Municipal Systems Act.

5.4.2 Poor work performance by suppliers

A significant part of municipal budgets is allocated to building of infrastructure. Infrastructure expenditure is usually procured through a tender process and upon award, is allocated to the successful contractor / supplier. Since there is a large financial commitment to infrastructure, this presents as a significant area of risk for the municipality. In the proper management of suppliers to the municipality there are a few provisions in the MFMA which provides guidance as to the proper monitoring to ensure performance by the contractor / supplier:

- Properly enforce contracts or agreements and monitor the contractor's performance Monthly - MFMA s116(2)(a), s116(2)(b) & s116(2)(c)
- Manage non- or underperformance through termination of contract - MFMA s116(1)(b)(i)
- Report and monitor management of contracts and performance of contractors - MFMA s116(2)(d)

5.4.3 Supply Chain Management

The oversight role for MPACs in relation to SCM is captured in the Municipal SCM Regulations (Reg 27636 of 2005). Section 6 of the aforementioned regulations refers to the following:

- The council of a municipality [MPAC] must maintain oversight over the implementation of its supply chain management policy,
- Within 30 days of the end of each financial year submit a report on the implementation of the SCM policy to council
- Whenever there are serious and material problems in the implementation of the SCM policy, submit a report to council,
- The accounting officer must within 10 days of the end of each quarter submit a report on the implementation of the SCM policy to Council
- In terms of Section 21 of the Municipal Systems Act, the report must be made public

Reporting in AFS - In terms of section 36 of the Municipal Supply Chain Management Regulations any deviation from the Supply Chain Management Policy needs to be approved/condoned by the Accounting Officer and noted by Council. This condonation forms part of the section of Additional Disclosures of the MFMA in the notes to the AFS.

6. TOOL: SIX KEY ATTRIBUTES OF AN EFFECTIVE MPAC

This tool is intended to assist the MPAC to track its own performance. It is not a performance measurement matrix per se but could be used to frame the relevant KPI's which can be included in the charter

Aim	Key attributes / measured by
<p>Non-partisan and unique identity</p>	<ul style="list-style-type: none"> • The MPAC in its composition reflects council as a whole and its composition must reflect councillors from across the spectrum • Party rivalry is left to council and members enjoy a collegial relationship • The MPAC is respected by council for its independence and not subject to the influence and power structures of any party • Approaches to the media and public statements/ profile are shaped by consensus • The MPAC does not challenge government policy but examines its implementation.
<p>Working culture</p>	<ul style="list-style-type: none"> • A respected and knowledgeable Chair who has well-developed leadership skills. • Operates independently of the executive and asks probing questions • MPAC members have passion, commitment and value the oversight responsibility • Members have strong views on oversight and are independent of each other, but work to complement and support each other's efforts • Exercises initiative and leadership in matters of accountability e.g. takes up issues that are not on the municipality's current agenda or are moving slowly – does not wait for the AG to raise issues, makes own approaches to AG, PT or NT when required • Encourages government to take action and makes its recommendations in this regard clear and explicit • Independently decides when meetings will be held, the agenda and required participants of officials and public – meeting to be focused and programme driven rather than simply routine go through the motions. • Questions are prepared prior to meetings and invites sent to officials to be present and protocol for the order of questions and strict time limits • Management of the MPAC workload – a systematic working through of issues with adequate time allocation for completion of tasks
<p>Public profile</p>	<ul style="list-style-type: none"> • High visibility, meetings are open to public and the media, and full transcripts and minutes are prepared and made available to the public

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	<ul style="list-style-type: none"> • Manage own relations with the media and pro-active in raising matters of public interest • Strong capability to report and account to the community - publicly examines issues and places information before the public • The public is broadly aware of the MPAC and understands its role
Capacity	<ul style="list-style-type: none"> • Actively works to build and sustain its capacity for effective scrutiny of public expenditure through: <ul style="list-style-type: none"> ▪ Focused training ▪ Continuity of membership, ▪ Teamwork, ▪ Specialisation and division of labour (e.g. subcommittees and information-gathering sessions) ▪ Regular information briefings, ▪ Expert advisors ▪ Making full use of municipal staff and those of the internal audit unit
Self-evaluation	<ul style="list-style-type: none"> • Has clear objectives, goals and related indicators that allow the MPAC to monitor and evaluate its own performance • Reports on its own performance in a manner that reveals work completed and in progress, highlights of hearings and recommendations, council and departmental responses, and implementation actions by the municipality as a whole • Sets targets for implementation of its recommendations, and publishes the cost of its enquiries • Identifies the factors that are conducive to effective oversight performance (all the elements of this matrix) • Is open and responds to outside reviews of its own performance (by the AG, PT or NT, for example) • In the final analysis, is able to show that it has had a significant and beneficial impact on municipal programmes
A full and comprehensive oversight mandate	<ul style="list-style-type: none"> • Broad scope: the power to investigate or review all past, current and committed expenditure and performance issues • The power to initiate enquiries • The power to access to credible, reliable and appropriate information. • Free choice: the capability to choose subjects for examination without government direction and advice, and to initiate inquiries with a clear focus on accountability; • Effective analysis, reporting and response the power to make recommendations, publish conclusions, suggest improvements, and follow up on implementation

7. TOOL: THE MPAC TERMS OF REFERENCE AND FUNCTIONS

Formal establishment of THE MPAC TERMS OF REFERENCE AND FUNCTIONS is still in progress, the following should be considered during development

7.1 The Concept of Accountability



The municipal sphere of government is where most direct service delivery occurs and this requires significant public expenditure. Consequently, it is at this level that proper public oversight and accountability become critical. The municipal sphere of government however faces serious challenges in respect to governance, accountability and financial management systems. The widely-accepted principles of public oversight and accountability ensure that those entrusted with executive powers and public resources are required to give account of how they exercise of their powers and responsibilities.

7.2 The Purpose

The terms of reference sets out the specific responsibilities delegated by the Council to the Municipal Public Accounts Committee (MPAC), and spells out in broad terms the manner in which the committee will operate. The terms of reference also describes the mission and principles that guide the MPAC.



7.3 Mission



To exercise oversight over the executive structures of council and senior management and to ensure good governance throughout the municipality. In order to clearly define its relationship with the executive, the MPAC makes reference to the guideline on the *Separation of Executive and Legislative Powers*. Furthermore, the MPAC undertakes to increase council and public awareness of the financial and performance issues that arise within the municipality and its entities.

7.4 Legal Status

The MPAC is a committee of council established in terms of Section 79 (1) (a) and (b) of the Municipal Structures Act of 1998. In accordance with the above provision, the MPAC has powers and functions that council has seen fit to delegate to the committee. These powers and functions are broadly described within this terms of reference.

This terms of reference gives expression to the requirement contained within Section 79 (2) of the Municipal Structures Act, 1998 which requires that that the council shall set out the framework and guidelines within which such committees of council shall operate.

The legal basis for the MPAC oversight functions are set out in Section 129(4) of the Municipal Finance Management Act (MFMA) which provides guidance on the manner in which municipal councils should consider annual reports and conduct public hearings. The MFMA provisions also direct the functioning and composition of any public accounts or oversight committees established by the council to assist it to consider an annual report.

This MPAC is established by council resolution (no. and date) in terms of Section 79 of the Municipal Structures Act. 1998.

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7.5 Composition and term of office of the MPAC

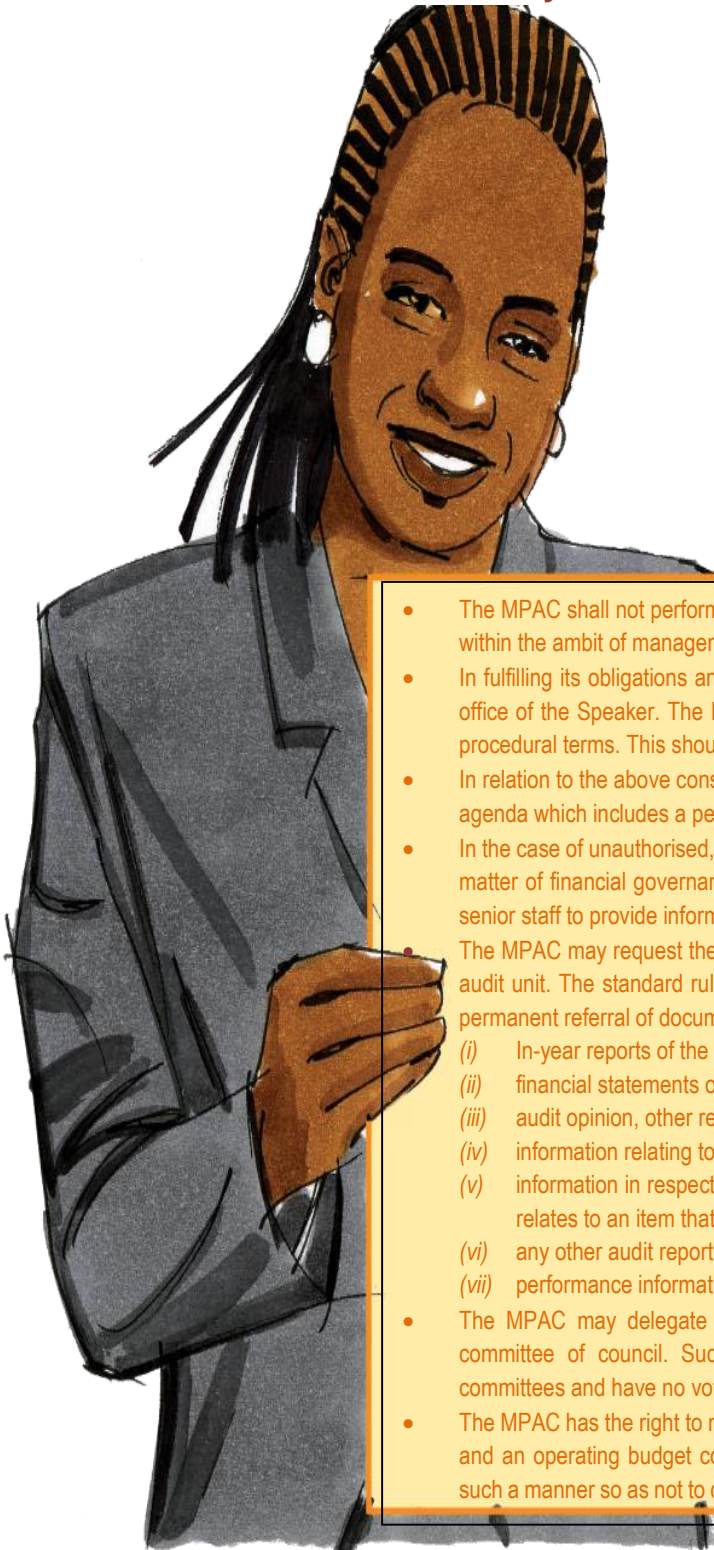
- The MPAC will comprise solely of councillors appointed by resolution of a full council meeting. However in terms of Section 79 (2) (d), the council also authorises the MPAC to co-opt advisory members who are not members of council but who possess special expertise or experience which will benefit the MPAC. Due consideration shall be given to the cost implications of such co-option.
- Appointments to the MPAC shall reflect the proportional representation of political parties represented on council and shall not exceed members (See Annexure 1.). In making such appointment council shall consider the experience and qualifications that may usefully serve the MPAC's objectives.
- For the purposes of continuity and promoting experience and expertise within the MPAC, council is urged to ensure that whenever possible, MPAC nominations have previously served on the MPAC or have similar experience
- The names of the MPAC councillors, their party affiliation and a brief profile covering their professional qualifications / experience shall be published on the municipal website and in the Annual Report
- Council must adopt nomination procedures that ensure that all MPAC members shall be councillors of demonstrable integrity and of independent mind
- The Chairperson of the MPAC will be appointed by council as per the provisions of Section 79 (2)(c) of the Municipal Structures Act. In making this appointment council is advised to consider appointing a member of the opposition party to the MPAC Chair as this has been shown to promote independence and credibility of the MPAC in the eyes of the public.
- No executive councillors (Executive Mayor or Deputy Executive Mayor, Mayor or Deputy Mayor, Speaker, Chief Whip, a member of Mayoral Committee or member of the Executive Committee) may serve on the MPAC.
- The MPAC will be appointed for a term which corresponds to the term of council.

7.6 Functions of the MPAC

The primary functions of the Municipal Public Accounts Committee are as follows:

- To review and evaluate the content of the annual report and to make recommendations to Council when adopting an oversight, report on the annual report;
- In the case of matters not finalised, information relating to past recommendations made on the Annual Report, must also be reviewed. This relates to current in-year reports, including the quarterly, mid-year and annual reports. This exercise must be geared to the remedy of problems rather than simply reporting on issues that remain persistently unresolved;
- To examine the financial statements and audit reports of the municipality. This review must identify shifts and improvements from previous statements and reports. It must also assess the extent to which the Audit Committee's and the Auditor-General's recommendations have been implemented and seek explanation when no or ineffective actions have followed;
- To promote good governance, transparency and accountability and value for money in the use of municipal resources;
- To recommend or undertake any investigation in its area of responsibility, after reviewing any investigation report already undertaken by the municipality or the Audit Committee;
- To perform any other functions assigned to it through a resolution of Council within its area of responsibility.

7.7 Powers and authority of the MPAC



- The MPAC shall not perform any powers or functions that are of an executive nature or fall within the ambit of management.
- In fulfilling its obligations and responsibilities, the MPAC reports directly to council via the office of the Speaker. The MPAC's report however is independent both in substance and procedural terms. This should be reflected in the Rules of Order of Council.
- In relation to the above consideration, Council is encouraged to develop a standard council agenda which includes a permanent item for the MPAC report.
- In the case of unauthorised, irregular expenditure, fruitless and wasteful expenditure or any matter of financial governance, MPAC has the right to call the accounting officer or other senior staff to provide information or clarity.
- The MPAC may request the support of both the Audit Committee and the internal auditor / audit unit. The standard rules for the Council apply to MPAC. The Committee shall have permanent referral of documents relating to:
 - (i) In-year reports of the municipality;
 - (ii) financial statements of the municipality as part of the Committee's oversight process;
 - (iii) audit opinion, other reports and recommendation from the Audit Committee;
 - (iv) information relating to compliance in terms of sections 32, 128 and 133 of MFMA;
 - (v) information in respect of any disciplinary action taken in terms of the MFMA where it relates to an item that is currently serving or has served before the Committee;
 - (vi) any other audit report from the municipality; and
 - (vii) performance information of the municipality.
- The MPAC may delegate any of its members to attend and observe any other sub-committee of council. Such delegates however are not members of the other sub-committees and have no voting rights
- The MPAC has the right to motivate to council for the provision of staff, equipment, facilities and an operating budget commensurate with its obligations. This must be undertaken in such a manner so as not to duplicate any functions already performed by municipal officials.

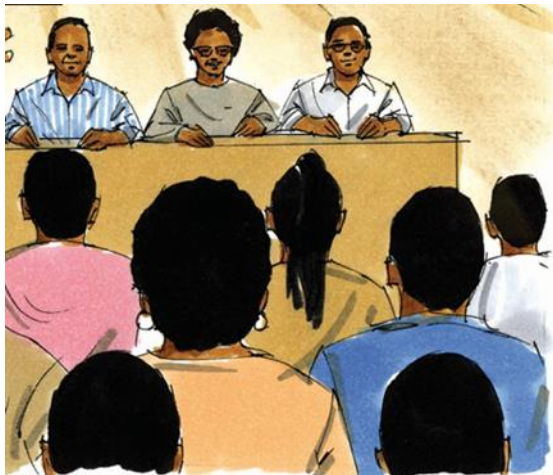
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7.8 MPAC work programme and meetings

- MPAC meetings shall be held as necessary in accordance with the approved work plan / programme and shall not be less frequent than once per quarter
- The meetings of MPAC must be included in the annual calendar of Council and the same notice requirements apply
- The MPAC work plan must align with other committees of Council and reflect the timeframes in the MFMA for planning and budgeting cycles and the preparation and adoption of the oversight report on the annual report.
- The MPAC must develop its work plan / programme annually before the start of a financial year. The annual work programme must be approved by Council.
- The procedures of the MPAC are determined by Council as provided for Section 79 (2)(f) of the Municipal Structures Act.



7.9 Public interaction and engagement



- The MPAC may engage directly with the public and respond to public comments and concerns that fall within its ambit of responsibility
- The MPAC shall endeavour to ensure that important information related to the public engagement is communicated to the public prior to the engagement
- All meetings of the MPAC shall be open to the public and the MPAC may issue invitations to special interest groups or stakeholders when pertinent matters are under discussion
- All meetings of the MPAC shall be advertised on the municipal website including a brief outline of the agenda
- When conducting in-field inspections or project site visits, the MPAC has the right to invite interested parties / specialists from the community and to seek their insights and advice
- The MPAC shall be entitled to attend all public meetings where the draft annual report is presented and to facilitate public input on the annual report
- In order to facilitate meaningful public engagement in the procedures outlined above, the MPAC may request documents or evidence from the Accounting Officer of the municipality or municipal entity.
- When the annual report is tabled in council, the MPAC shall be afforded the opportunity to make a presentation on the oversight report and to take questions from the public for a period of not less than 30 minutes



7.10 Reporting

- As noted – the MPAC reports directly to council
- In its own performance report to council, the MPAC shall deal with the following:
 - activities of the committee over the preceding and current financial years
 - the number of meetings held
 - the membership of the committee and any measures to retain skills and experience / ensure continuity
 - key resolutions taken on the annual report.
- The MPAC shall report to council not less than once per quarter or as its oversight responsibility requires. In the case of financial and budgetary performance oversight reports, the MPAC shall report on:
 - Recommendations to council
 - Council resolutions on the recommendations
 - Implementation of the council resolutions
- The full Council should deliberate on the recommendations from the MPAC, at a meeting open to the public. The MPAC shall indicate those items where immediate or very urgent resolution is required, in order to expedite such matters, council must convene a special sitting if the matter remains unresolved in an ordinary council meeting.

7.11 MPAC self-monitoring and monitoring of council actions

- The MPAC shall develop a monitoring and tracking mechanism that is aligned to its approved work programme. This mechanism shall include:
 - A record of the recommendation made to council, the date and the nature of the council response / resolution
 - The key respondents in the matter and the expected action
 - The outcome of the recommendation implemented / not implemented and any pertinent reasons for not implementing
 - When council has made a resolution on a matter raised by the MPAC, it shall communicate that resolution to MPAC within days of the date on which the resolution was decided
 - The self-monitoring framework used by the MPAC should reflect the measures set out in its own performance report to council (see above). Additionally the MPAC may develop indicators based on the Key Attributes framework that forms part of the toolkit
 - These performance measures shall form part of the municipality's annual review of performance

7.12 Monitoring of MPAC performance by council

Council must evaluate the performance of MPAC on an annual basis. The performance measures used for this process shall reflect the measures set out in the MPACs own performance assessment report to council (see above). Where the MPAC has chosen to adopt indicators as set out in the Key Attributes framework, these may become part of the performance monitoring system.

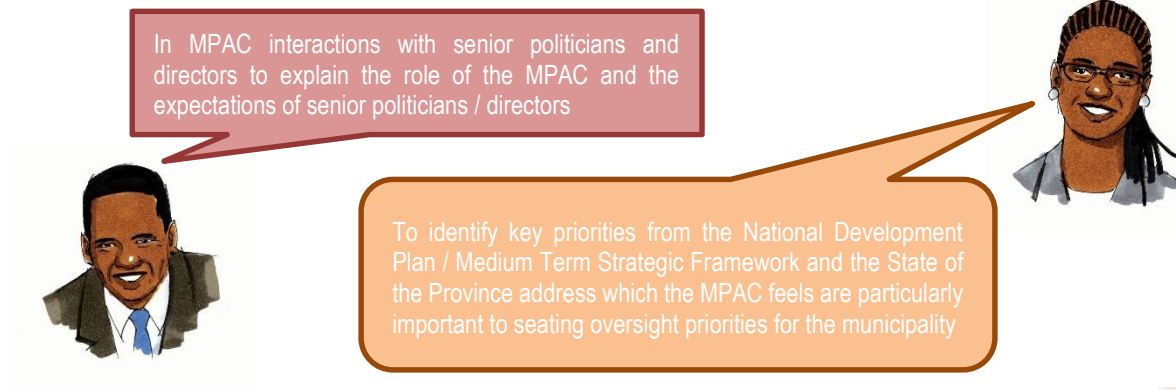
7.13 MPAC support staff and budget



For the MPAC to effectively execute its functions, it shall receive the services of the necessary support staff. Staff assigned to this support role shall be capable of co-ordinating and undertaking research activities as required by the committee work programme and rendering an effective secretarial and committee management service. The MPAC shall also be assigned a budget commensurate with its functions and obligations as may be appropriate within the affordability levels of council and in so doing not to duplicate any functions performed by other municipal functions.

7.14 Application of this tool

The MPAC terms of reference may be used as follows:



Annexure 1:



The following guideline (Department of Co-operative Governance and National Treasury 2012) shall be used when deciding on the number of councillors to serve on the MPAC:

- municipalities with less than 15 councillors may nominate up to 5 councillors;
- municipalities between 15-30 councillors may nominate up to 9 councillors;
- municipalities between 31-60 councillors may nominate up to 11 councillors; and
- municipalities with more than 60 councillors may nominate up to 13 councillors.

8. A MODEL MPAC WORKPLAN

This tool provides an example of how to schedule meetings and events and align these to the council calendar. In many instances, practice requires that many of the deliverables are attended to in advance of outer legislated deadlines. This is so to enable council oversight and related process to be undertaken in time and more thoroughly. Hence, it is common practice to ensure earlier actions are taken. It also identifies guiding legislation applicable to each step/process

Financial Year.....

Current and on-going work

Investigations	Performance reviews	Public hearings & community input on AR	Verify progress on recommendations and matters unresolved

The table above simply outlines the overall workload of the MPAC over the financial year and the nature of on-going oversight work

Date	Time	Activity	Required presence (apart from MPAC)	Relevant Legislation
February/March	XXX	Compilation of the Oversight Report	PT or NT, Cogta, AG	Municipal Systems Act & MFMA
March	XXX	Tabling and adoption of Oversight Report	Internal audit & directors	-
		Confirm Annual Financial Statements and Annual Report will be submitted at the end of August to AG	Internal audit; CFO (Budget and Treasury Office	Municipal Systems Act (s 126) & MFMA (s46)
Monthly or quarterly August/Sept	xxx	Monthly meetings as required: <ul style="list-style-type: none"> • Investigations • Progress review 	As per meeting focus	MPAC Guidelines
		Confirm Annual Financial Statements and Annual Report was submitted at the end of August to AG	CFO(Budget and Treasury Office)	Municipal Systems Act (s 126) & MFMA (s46)
October/ November	xxx	Review / Confirm implementation of annual action plan/ audit action plan	Internal Audit & Audit Committee Chair	MFMA (s166)

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Date	Time	Activity	Required presence (apart from MPAC)	Relevant Legislation
	xxx	1 st Quarter progress report & budget implementation report		Municipal Structures Act (s 56)
		Prepare oversight programme on Annual Report		
Monthly/Quarterly	xxx	Monthly meetings as required: <ul style="list-style-type: none"> • Investigations and follow up on addressing UIFW and Consequence Management • Progress review Section 41 Reports (Bulk Services: Eskom and Water Boards)	As per meeting focus CFO ; Internal Audit and SCM	MPAC Guidelines
November/ December	xxx	Consider monthly budget report (July – Oct)		MFMA (71 [1])
	xxx	Check 1 st Quart progress report	Internal audit	MFMA (52 & 166)
	xxx	Review of IDP (scorecards, KPIs, objectives, budget etc.)		Municipal Systems Act (s 34)
	xxx	Monthly budget statement	Internal audit	MPAC (s71)
November/December/ January	xxx	Prepare Confirm progress off oversight programme on Annual Report		
	xxx	Verify tabling of AR to Council by Mayor / Exec. Mayor		MFMA (s 121 & 127)
	xxx	Interviews with MM & Section 56 Managers		
	xxx	Council publicise AR and invite community input		MFMA (s 129 & 130) Municipal Systems Act (s 21 [a])
		Obtain feedback from Audit Committee on implementation of annual action plan/ Audit Action plan	Internal Audit / Audit Comm Chair	
	xxx	Review the 2 nd Quart performance reports of the MM & S 56 managers		MFMA (s 52) Municipal Systems Act (s 41 [1](e))

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Date	Time	Activity	Required presence (apart from MPAC)	Relevant Legislation
		Review 1 st draft of the oversight report on the AR	AG	MFMA (130 (2))
	xxx	Monthly budget statement	Internal audit	MFMA (s71)
January/ February	xxx	Review oversight progress	AG	MFMA (s 129 (2))
	xxx	Conduct public hearings on the AR	Internal audit	MFMA (s131 (1))
	xxx	Consider public inputs on the AR	Internal audit	MFMA (129 – 130) Municipal Systems Act (s 21A)
	xxx	Compile draft oversight report on the AR		MFMA (129 (2) b)
	xxx	Review 1 st draft of the oversight report on the AR	AG	MFMA (130 (2))
	xxx	Present oversight report on the AR to council	Council & AG	MFMA (130 (1) &(2))
	xxx	Monthly budget statement	Internal audit & CFO	MFMA (s71)
March	xxx	Review the 3rd Quart performance reports of the MM & S 56 managers		MFMA (s 52) Municipal Systems Act (s 41 [1](e))
	xxx	Verify submission of minutes of the AR meeting to the NT, PT, AG, legislature and Cogta by MM		MFMA (52 & 66) Procurement Management Regs (14 (2))
		Verify Adoption of oversight report with comments on AR		MFMA Sect 129 (1)
	xxx	Verify publication of the oversight report by the MM		MFMA (129 (3))
April	xxx	Monthly budget statement	CFO(BTO Office)Internal audit	MFMA (s71)
	xxx	Verify Council adoption of IDP & Budget		MFMA (s24)
	xxx	Verify submission of the approved IDP and Budget to the MEC for LG, NT, PT, AG and legislature		Municipal Systems Act (s 25)

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Date	Time	Activity	Required presence (apart from MPAC)	Relevant Legislation
	xxx	Verify public notification that the IDP and budget are adopted and are available for public consideration		Municipal Systems Act (s 21)
May	xxx	Monthly meetings as required: <ul style="list-style-type: none"> • Investigations and dealing with UIFW and Consequence Management • Progress review Section 41 Reports (Bulk Services: Eskom and Water Boards)	As per meeting focus	MPAC Guidelines
	xxx	<ul style="list-style-type: none"> • Verify that IDP / budget / AR and other required docs published on the municipal website 		Municipal Systems Act (s 21 A) and MFMA (s75)
June	xxx	Verify that SDBIP has been submitted to Mayor within 14 days of budget & IDP adoption		MFMA (s53)
	xxx	Verify that the draft performance agreements have been submitted to the Mayor within 14 days of budget & IDP adoption		MFMA (s53)

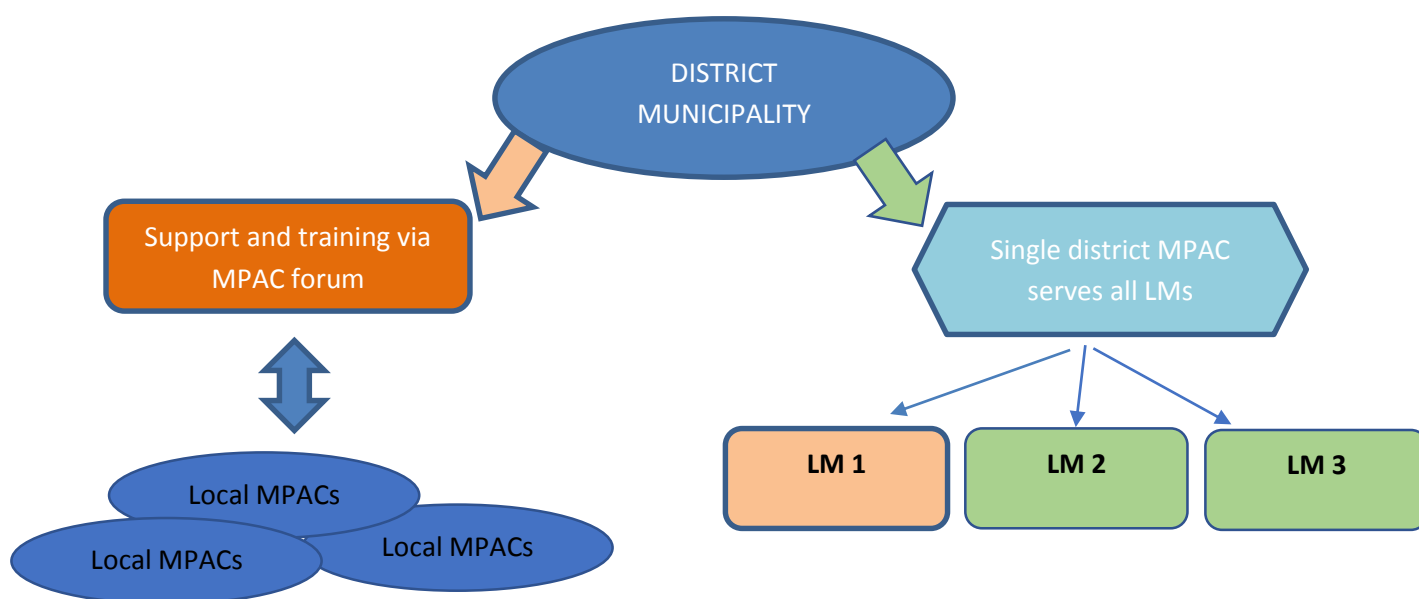
Note on MPAC working relations with the Finance / Budget Committee: Both committees are committees of council and any overlap in functions carries the risk of creating tension and blurring responsibility. The MPAC should not impinge upon the financial management responsibilities of the Finance Committee. The MPAC must however be kept abreast of all developments for information purposes and to make sure that there is proper follow-up on issues of oversight and accountability.

In respect of monthly and quarterly reports, the MPAC should receive such for information purposes. In practise this means that once the Budget /Finance committee has completed their review of the report, a copy of their (Budget Committee) findings and recommendations should be sent to MPAC. MPACs would then consider the Finance/ Budget Committee report in relation to whether or not they have sufficiently or completely probed the monthly or other reports and have in effect discharged their mandate.

9. TOOL: MPAC SHARED SERVICES MODEL

Consideration is also given to capacity and resource constraints therefore a shared services model for MPAC at district municipal level is provided. The National Treasury (*Consolidated general report on the audit outcomes of LOCAL GOVERNMENT 2013-14*) have raised the possibility of a shared services model for the MPAC function. A degree of maturity and understanding of the role and responsibility coupled with a clear terms of reference and council resolution is required. A service level agreement setting out the various roles and responsibilities can also clarify the workings of the shared model.

Some of the benefits of a shared services model can be realised through the current district MPAC model:



Provisional assessment of the merits of the call for shared services MPAC:

ADVANTAGE	DISADVATAGE
Creates a pool of scarce skills and experience which can be deployed across the district to the advantage of LMs	A district MPAC may become over-stretched
	Some experiences of the shared services model for audit committees suggested a tendency to cut corners to artificially streamline the AC function. However, it should be noted that ACs operate under different remuneration systems.
The district MPAC is not tied to any single municipality and is more likely to deal with oversight responsibilities in an objective manner	There may be a tendency for MPAC councillors to become defensive when discussing oversight issues in a wider forum
	Ownership of the oversight process may weaken when councillors are not part of the institution under review

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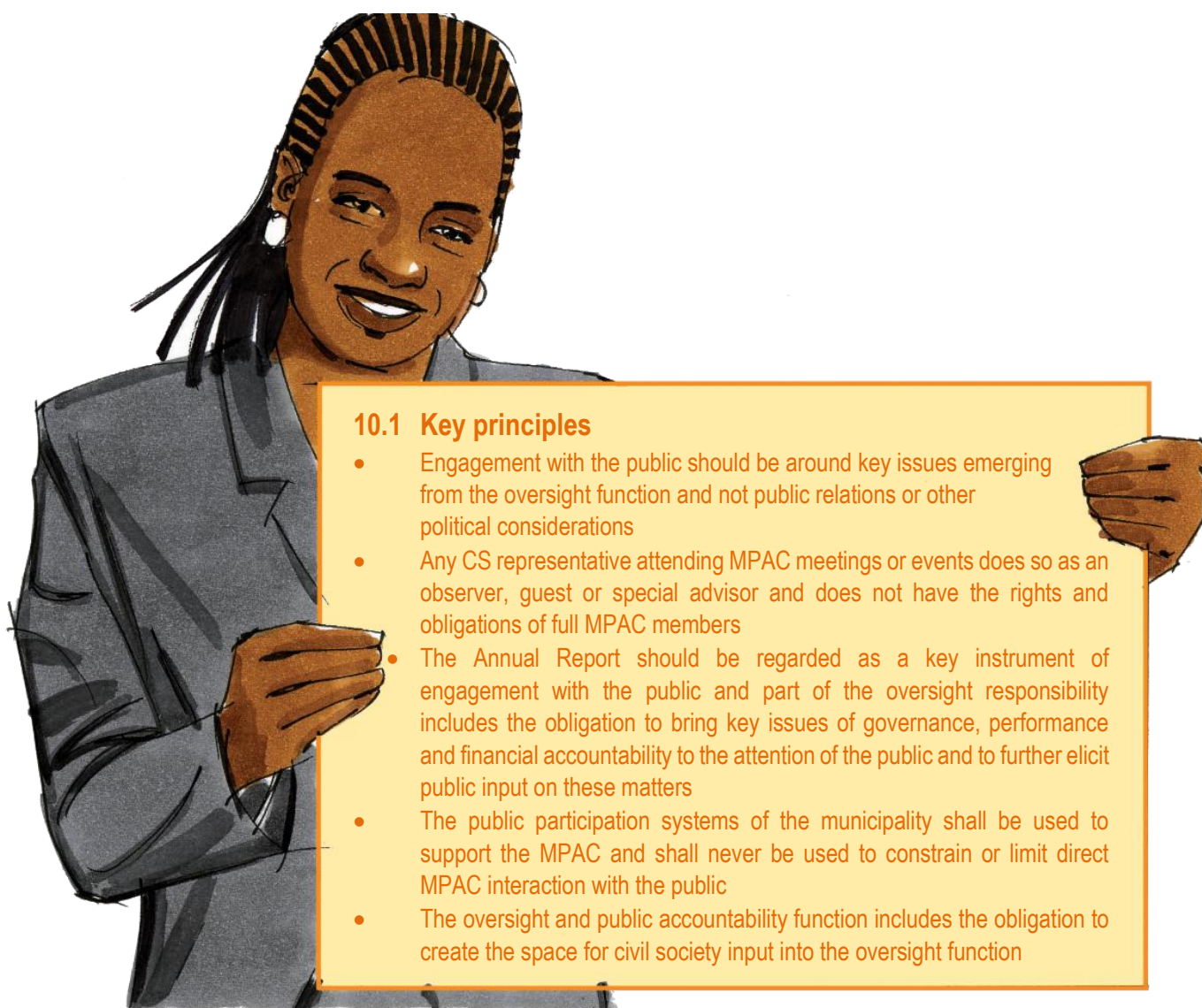
ADVANTAGE	DISADVANTAGE
<p>There is greater likelihood of retaining experience since the district MPAC can draw from multiple local councils where the likelihood that some serving councillors will be re-elected is greater</p>	<p>A local municipality where no MPAC members are returned to office may find itself 'out of its depth' on the district MPAC</p>
<p>A district MPAC would draw from the proven district MPAC forums which add value in terms of peer learning, information exchange, linking with and learning from related structures and generating scales of economy in terms of training and capacitation</p>	<p>The benefits generated by the informality of the district forum model may be inhibited if a district MPAC is formalised</p>

10.TOOL: MPAC – CIVIL SOCIETY RELATIONS

The concept of ‘civil society’ is complex and subject to contestation however for the purposes of this tool the following understanding is offered as a useful point of departure.

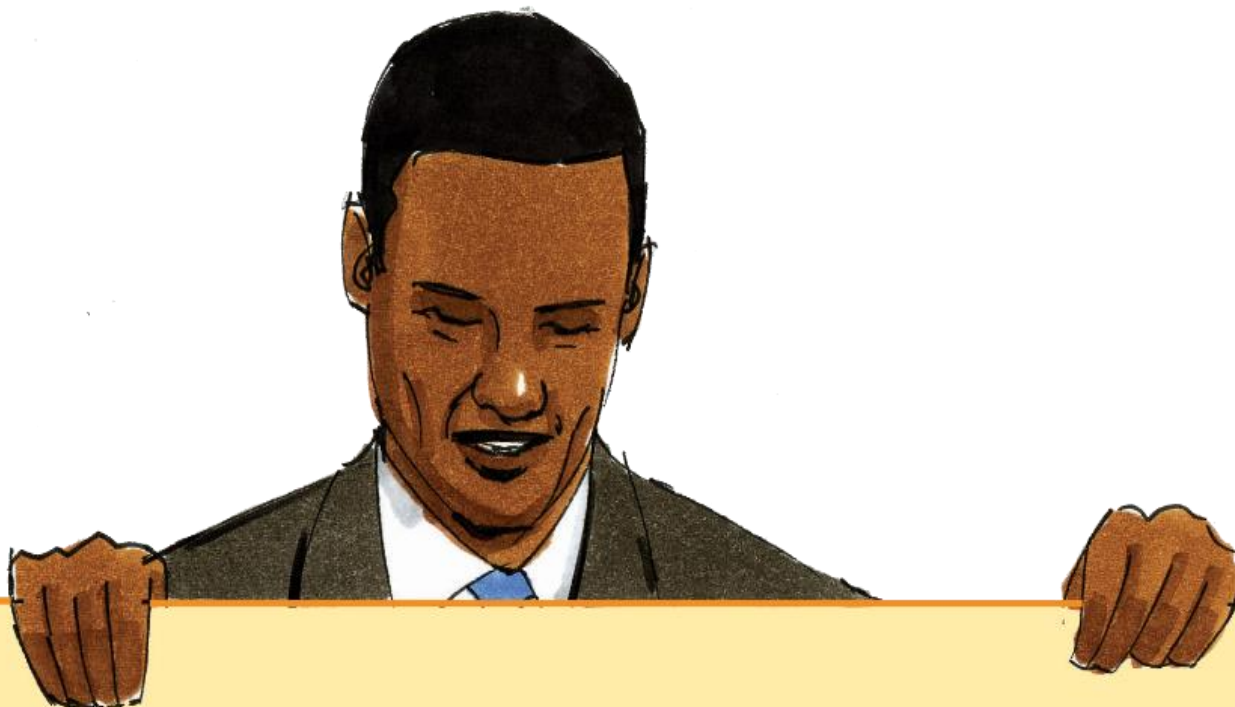
“Civil society refers to the arena of un-coerced collective action around shared interests, purposes and values. In theory, its institutional forms are distinct from those of the state, family and market, though in practice, the boundaries between state, civil society, family and market are often complex, blurred and negotiated.”
[London School of Economics (2006)]

It is recognised that the term ‘civil society’ is often used interchangeably with ‘the public’ or ‘the community’. For the purposes of clarity, this tool generally refers to the ‘the public’ when referring to all citizens in the broadest sense and not bound by spatial or social parameters. The term community is often used in a more localised sense and often suggest spatial and even social / economic characteristics.



10.1 Key principles

- Engagement with the public should be around key issues emerging from the oversight function and not public relations or other political considerations
- Any CS representative attending MPAC meetings or events does so as an observer, guest or special advisor and does not have the rights and obligations of full MPAC members
- The Annual Report should be regarded as a key instrument of engagement with the public and part of the oversight responsibility includes the obligation to bring key issues of governance, performance and financial accountability to the attention of the public and to further elicit public input on these matters
- The public participation systems of the municipality shall be used to support the MPAC and shall never be used to constrain or limit direct MPAC interaction with the public
- The oversight and public accountability function includes the obligation to create the space for civil society input into the oversight function



10.2 Basic operating systems

- All meetings of the MPAC shall be open to the public and only matters of extreme sensitivity shall be categorised as *confidential*
- Full MPAC minutes including appendices and accompanying documentation shall be available to the public
- When organising MPAC meetings, the following shall be observed:
 - An accessible and properly identified venue that allows public attendance
 - The agenda of such meetings shall be clear and concise as possible to allow maximum public understanding and engagement
 - The public shall be informed that the agenda is available in advance of MPAC meetings (consider posting on the municipal website / Facebook page, and use of other communication mechanisms are also encouraged)
 - Persons within civil society shall be invited to MPAC meeting when required to provide expertise and advice on specific matters, The MPAC shall draw up guidelines in respect of this provision and maintain a data base of relevant local civil society expertise.
- When assessing whether the Annual Report demonstrates consistency between agreed upon priorities, indicators and targets and the budget, as per section 130(2) of the MFMA, the MPAC shall ensure that a civil society representative is present and participates in the discussion
- The MPAC shall conduct all relations with the media through the channels prescribed by council. Using these channels, it should endeavour to be pro-active in raising matters of public interest and concern in a manner that advances the interests of the municipality and the public as a whole
- When tabling the Annual Report in council, the municipality shall allow the MPAC to make a presentation on its role and responsibilities as per the MPAC terms of reference and delegations. A summary of this presentation should be included in relevant municipal publications and the municipal website
- The MPAC shall have the power to convene public hearings on specific issues emerging from the oversight report and to request other oversight bodies (e.g. PT, NT Cogta and Auditor-General) to be present. The objective of these public hearings may include:
 - Gathering additional information required for the oversight report
 - Facilitate responses by the Executive to the public for matters related to unauthorised, irregular or wasteful expenditure and poor performance
 - Allaying public fears and concerns and strengthen the credibility of the oversight process

11. Summary of Key National Treasury Circulars

This tool is intended as a quick reference for MPAC to ensure compliance and guide activities & the work programme.

Many of the circulars appear to deal specifically with the financial years in which they were published however they retain some currency for subsequent years. The circulars often repeat or reiterate information or instructions already provided and are mainly based upon pre-existing provisions in law – mainly the MFMA.

Abbreviations

- AC – Audit Committee
- AFS - Annual Financial Statements
- AR – Annual Report
- ASB - Accounting Standards Board
- Dora – Division of Revenue Act
- GRAP - Generally Recognised Accounting Practice
- IDP – Integrated Development Plan
- MFMA - Municipal Finance Management Act, No. 56, 2003
- MIG – Municipal Infrastructure Grant
- MSA - Municipal Systems Act, No. 32, 2000
- MTREF - Medium Term Revenue and Expenditure Framework
- NT – National Treasury
- SDBIP - Service Delivery and Budget Implementation Plans (s 53 MFMA)
- DORA - Division of Revenue Act for the relevant budget year.

Categorisation of circulars by function

Function	Relevant Circulars
Annual Reporting	Circular No. 11 Circular No 32 (Oversight report) Circular No. 63
Budgeting	Circular No. 10 (progressive changes and updates) Circular No. 12 Circular No. 13 Circular No. 15 Circular No. 19 Circular No. 23 Circular No. 27 Circular No. 28 Circular No. 31 Circular No. 41 Circular No. 42 Circular No. 48 Circular No. 54 Circular No. 55 Circular No. 58 Circular No. 59 Circular No. 64 Circular No. 67 Circular No. 72

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	<p>Circular No. 74 Circular No. 75 Circular No. 78 Circular No. 79 Circular No. 80 Circular No. 82 Circular No. 85 Circular No. 86 Circular No. 88</p>
Accounting Standards and Annual Financial Statements	<p>Circular No. 18 Circular No. 44</p>
Audit process	<p>Circular No. 50 Circular No. 65 (Internal Audit and Audit Committee)</p>
Unauthorised, Irregular, Fruitless and Wasteful Expenditure	<p>Circular No. 68</p>
Uniform Financial Ratios and Norms	<p>Circular No. 71</p>
System of Delegations	<p>Circular No. 73</p>
Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings	<p>Circular No. 76</p>

Key provisions in circulars

Circular	Key Provisions
<p>MFMA Circular No. 11 Municipal Finance Management Act No. 56 of 2003</p>	<p>Annual Report of the Municipality (see updated version in Circular 63)</p> <ul style="list-style-type: none"> • Emphasis on comparing actual performance with promised performance. • Annual reporting linked to IDP and budget • The need to demonstrate municipal performance to the community • Section 121(3) of the Municipal Finance Management Act prescription of AR content (Financials, AG report, audit committee recommendations etc.) and Dora – use of grants, donor funds, contracts, service performance etc.) • Provide information on staff salaries, wages, allowances and benefits • Timing of tabling in council - by 31 Jan • Timelines for submission of financials to AG (31 Aug or 30 Sept if municipal entity included) • Council oversight reports on the AR <ul style="list-style-type: none"> ○ Comments & adoption\rejection or referral back ○ Council meeting to discuss AR must be open to the public ○ Intention to have MPAC to deal with audit outcomes and Annual Report • Format of the AR: Chapter 1: Introduction and Overview Chapter 2: Performance Highlights Chapter 3: Human Resource and Organisational Management

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Circular	Key Provisions
	<p>Chapter 4: Audited Statements and Related Financial Information Chapter 5: Functional Area Service Delivery Reporting <i>The content of each chapter is set out in detail e.g. service backlogs, service standards, progress in reviewing building applications, staffing levels etc.</i></p> <ul style="list-style-type: none"> • Disclosure of salaries and benefits of Councillors, Directors and Senior Officials • Reporting on MIG expenditure including comparisons with targets in the SDBIP and implementation of the capital budget and how this has been reported to NT
<p>MFMA Circular No. 12 Municipal Finance Management Act No. 56 of 2003</p>	<p>Definition of “Vote” in MFMA</p> <ul style="list-style-type: none"> • Explains that in a municipal context, a <i>vote</i> is a budget structure for appropriate service delivery and performance – it becomes the basis for appropriations and reporting • Includes MFMA Section 1 definition : segmentation of the budget for assigning funds to departments or functional areas • Allows for comparisons over time and across municipalities as well as internationally • Facilitates use of the Government Finance Statistics (GFS) system for comparison of functions (water, electricity etc.) to be compared and linked to IDP goals • Presents the budget as a strategic instrument rather than just a figures-based management plan • The “vote” is therefore a high level (department and functional area), instrument that enables councillors to focus on policy and strategy • Through the MFMA, the ‘vote’ ensures that measurable performance objectives are developed for the major service and development goals to ensure that municipalities are accountable to the community for service delivery as well as expenditure and revenue • Includes example showing link between “Departments”, “Votes” and “GFS Functions” • The municipality organisational structure does not have to match the GFS sub-functions however reporting mechanisms must allow for reporting by GFS functions and sub-functions. • The budget resolution – <i>the vote</i> is the basis for appropriating operating expenditure, capital expenditure and defining measurable performance objectives • Any expenditure incurred that is not in accordance with a vote (or exceeds the amount for a vote) is classified as unauthorised expenditure.
<p>MFMA Circular No. 18 Municipal Finance Management Act No. 56 of 2003</p>	<p>Implementation of New Accounting Standards and Format of Annual Financial Statements</p> <p>Requires municipalities and municipal entities to prepare financial statements in accordance with Generally Recognised Accounting Practice (GRAP) – Accrual Basis</p> <ul style="list-style-type: none"> • Describes the main functions of the Accounting Standards Board (ASB) (setting standards for accounting practice)and how the NT, ASB and AGSA work together to ensure compliance

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Circular	Key Provisions
	<ul style="list-style-type: none"> • The 3 GRAP and 8 Generally Accepted Municipal Accounting Practice (GAMAP) minimum standards to be complied with by municipalities • Also indicates that new/updated standards will follow, posted on Accounting Standards Board Website). • Specimen financial statements were provided at the time however these were not mandatory – phased GRAP compliance is provided for over the periods 2005/2006 - 2007/2008 • Compliance with formatting of financial statements according to GRAP • Sets out the suggested institutional steps to reach compliance • Describes the MFMA regulated process for submission of financial statements to the AGSA and NT – consequences of non-compliance may include withholding of the ES transfers
<p>MFMA Circular No. 28 Municipal Finance Management Act No. 56 of 2003</p>	<p>Budget Content and Format - 2006/07 MTREF</p> <ul style="list-style-type: none"> • Guidance on content and format for municipal budget documentation for the 2006/07 Medium Term Revenue and Expenditure Framework (MTREF). • Reminder that budgets must be funded according to MFMA section 18(1) - realistically anticipated revenues, cash backed accumulated funds from previous years' surpluses not committed for other purposes; and borrowed funds, but only for the capital budget • Budget credibility – budget activities must reflect IDP, credible revenue and expenditure projections based on past performance, protects financial viability, matches service delivery targets etc. • Outlines the budget content and format and the purpose of different budget components – Mayoral budget speech, budget resolutions, schedules etc. • Required supporting documents • Stakeholders to be consulted • Alignment of Budget with Integrated Development Plan • Budget Related Policies Overview and Amendments • Budget Assumptions - external factors (population migration, employment, health, development of businesses, and new residential areas, etc.), inflation outlook, credit rating outlook, interest rates for borrowing and investment of funds, growth or decline in tax base etc. • Fiscal overview - a review of financial performance, projection of long-term financial outlook, financing and funding arrangements etc. • Sources of funding – e.g. rates, tariffs and other charges, savings and efficiencies; investments, grants etc. • Disclosure of financial allocations by the municipality – also salaries, benefits etc. • Monthly cash flows • Measurable Performance Objectives (Revenue Source and Vote) • Disclosure on Implementation of MFMA & Other Legislation

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Circular	Key Provisions
	<ul style="list-style-type: none"> • Budgets and SDBIPs – line department (internal to municipality), a summary of each departmental or functional SDBIP • Detailed capital plans, aligned to national and provincial sector plans • Budgeted Financial Statements – performance, statement of financial position, statement of cash flows etc. <p><i>Annexures:</i></p> <ul style="list-style-type: none"> • Procedure for framing and adopting budget-related resolutions plus examples • Examples of budget formats including graphs • Examples of financial indicators that could be used to assess financial performance • Guidance as to what should be included under the budget section headings • Budget-related ways of generating savings and efficiencies • Describing the meaning and purpose of budgetary instruments and concepts and how these should be planned: <ul style="list-style-type: none"> - Investments - Grant allocations - Contributions and donations - Sale of assets - Carry Over - Proposed Future Revenue Sources - Borrowing
<p>MFMA Circular No 32 Municipal Finance Management Act No. 56 of 2003</p>	<p>The Oversight Report</p> <ul style="list-style-type: none"> • Sets out the financial governance framework applicable to local government including oversight role of council and other key functionaries • Explains the separation of powers and roles for council versus the administration and also executive and non-executive councillors • Sets out the purpose of the Annual Report – mainly performance reporting and the key components: <ul style="list-style-type: none"> ○ The annual performance report as required by section 46 of the MSA. ○ Annual Financial Statements submitted to the Auditor-General ○ The Auditor-General’s audit report on the financial statements in terms of section 126(3) of the MFMA; and ○ The Auditor-General’s audit report on performance in terms of section 45(b) of the MSA • Explains what an oversight report is - the oversight report is a report of the municipal council and follows consideration and consultation on the annual report by the council itself. Council must, in regard to the AR approve, reject or refer back to drafters – also explains how such assessments should be made • Includes in Annexure A recommended structure for an oversight report and draft resolutions to adopt the report. • Sets out the process for the establishment of the Oversight Committee (MPAC) under sections 33 and 79 of the Municipal Structures Act 1998. • Provides that the Oversight Committee may receive and review representations made by the public and also seek inputs from other councillors and council portfolio committees.

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Circular	Key Provisions
	<ul style="list-style-type: none"> • Advises that the oversight committee should be made up of only non-executive councillors and representatives of the community and can be formed each year to deal with the annual report • All meetings of Council and the oversight committee at which an annual report is considered must be open to the public and a reasonable time must be allowed for discussion of any written submissions received and for members of the community and organs of state to address the meetings. • When considering the annual reports from municipal entities, issues of commercial confidence may arise - council should make a judgement on whether these must be treated as confidential • Annexure B reminds of the key steps in the annual reporting process as required by the MFMA • Clarifies that it is the Council (via oversight committee), and not the executive or administration that must comment on the AR and its accuracy as a reflection of performance – Audit Committee views should be sought • Provides that the payment of performance bonuses should be commensurate with the extent of outcomes achieved. • Where municipal entities exist, separate annual reports must be tabled in council but the oversight report should cover both municipal and entity reports <p><i>Annexures</i></p> <ul style="list-style-type: none"> • Structure and Contents of the Oversight Report • Outline of the <i>Resolutions and Statement</i> required in the oversight report in terms of section 129(1) of MFMA, for adoption or comment on the AR • Steps in the Annual Reporting processes – actions, timelines, responsibilities and legal references (MFMA & MSA) • Checklist for considering the annual report – financial, performance, general information and process
<p>MFMA Circular No. 44 Municipal Finance Management Act No. 56 of 2003</p>	<p>Preparation of Annual Financial Statements based on the Exemption Gazette 30013</p> <ul style="list-style-type: none"> • Relates to the extended phasing in of accounting standards applicable to the annual financial statements and is thus relevant to circulars 18 and 36 • Sets out new compliance dates for municipalities and entities based on their category of capacity (high, medium, low) • Provides for exemptions to the requirement to submit consolidated financial statements to the Auditor-General as required in terms of section 126(1) (b) of the MFMA.
<p>MFMA Circular No. 50 Municipal Finance Management Act No. 56 of 2003</p>	<p>Preparation of the Municipal Audit File</p> <ul style="list-style-type: none"> • Intended to assist municipalities in streamlining their audit preparation process, to provide appropriate and relevant information required by the AG • The municipal audit file is a set of documents which is prepared, collated, clearly referenced and put in an appropriate order by the municipality to support the figures in the trial balance and ultimately in the financial statements.

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Circular	Key Provisions
	<ul style="list-style-type: none"> The circular outlines the content and procedure for assembling the file, verifying content and ensuring it is distributed
<p>MFMA Circular No. 63 Municipal Finance Management Act No. 56 of 2003</p>	<p>Annual Report – update</p> <ul style="list-style-type: none"> Similar overall objectives to Circular 11 i.e. guiding the format and content of the AR, however captures other performance information aligning financial to non-financial information New Annual Report Format tries to achieve further standardisation, align financial and non-financial reporting, standardise a reporting \oversight structure, support the internal and external audit and standardise terminology Repeats linkages between AR, IDP, Budget, SDBIP etc. and importance of reporting on pre-determined targets Repeats references to Sections 121(3) and (4) of the MFMA re content of the AR New information to be included in the AR in terms of section 46 of the Local Government: Municipal Systems Act, (performance, GRAP compliant financials, audit report on financials etc.) Additional disclosure of amounts owed to municipality for more than 30 days from national or provincial departments and public entities, adherence to tax, pension fund, levies, audit fees etc., Municipal and municipal entity reporting process – an expanded and more detailed flow chart with narrative Description of the interrelationship between municipal reports (IDP, SDBIP, reports to NT and other spheres of government etc.) Overview of the 5-year IDP-budget cycle and the contribution of other reports to the AR Brings forward tabling deadlines and related activity plans with assignment of responsibilities and reminders to submit the AR to the AG on time, two months after year end which allows oversight structures to perform their functions more effectively and on a timely basis. A significantly changed (from Circular 11) format for the AR: <ul style="list-style-type: none"> Chapter 1: Mayor’s Foreword and Executive Summary; Chapter 2: Governance; Chapter 3: Service Delivery Performance; Chapter 4: Organisational Development Performance; Chapter 5: Financial Performance; Chapter 6: Auditor General’s Findings; Appendices; and Volume II: AFS <p><i>The content of each chapter is set out in detail e.g. there is a detailed breakdown of governance principles and a much broader set of issues e.g. ward committees to be reported on – especially in the prescribed appendices.</i></p>
<p>MFMA Circular No. 65 Municipal Finance Management Act No. 56 of 2003</p>	<p>Internal Audit and Audit Committee</p> <ul style="list-style-type: none"> Aim is to improve the effectiveness of internal audit and audit committees

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Circular	Key Provisions
	<ul style="list-style-type: none"> • Notes that the majority of audit findings can be addressed through recommendations made by internal audit and oversight by the audit committee • Reiterates Section 165 of the MFMA requirement that each municipality and each municipal entity must have an internal audit unit and the responsibilities of the unit • Notes that Section 166 of the MFMA requires that each municipality and municipal entity must have an audit committee. • Overviews the duties of the audit committee i.e. to advise on: <ul style="list-style-type: none"> ○ Internal financial control and internal audits; ○ Risk management; ○ Accounting policies; ○ The adequacy, reliability and accuracy of financial reporting and information; ○ Performance management; ○ Effective governance; ○ MFMA Circular No 65 ○ Internal Audit and Audit Committee ○ November 2012 Page 3 of 25 ○ Compliance with the Act, the annual Division of Revenue Act and any other applicable legislation; ○ Performance evaluation; and ○ Any other issues referred to it by the municipality or municipal entity. • Describes the status of the audit committee and how its terms of reference (charter) should be framed • Outlines the composition of the AC in terms of Section 166 of the MFMA: <ul style="list-style-type: none"> ○ at least three (3) persons who are not in the employ of the municipality or municipal entity ○ AC may be established as a shared service ○ Appointed by council ○ No councillors ○ Chaired by member not in the employ of the municipality • Guides the municipality on the qualities, skills, experience etc. of those who should be appointed to the AC • Underlines need for independence of AC – serves for at least 3 years and suggests rotations, continuity considerations etc. • Describes grounds for dismissal (by accounting officer) and process of inducting new members • Provides for quarterly AC reports to council and content thereof • Describes the authority wielded by the AC and how it should assess its own performance • The MPAC, in discharging its responsibilities, may make use of any information provided by the audit committee to avoid duplication of effort • Explains how AC members are remunerated – municipal staff are not eligible • Describes the AC’s role in relation to the internal and external audit functions and reviewing financial statements before they go the AG • AC expected to provide an independent and objective view of the effectiveness of the municipality’s risk management system • Other AC functions: <ul style="list-style-type: none"> ○ Assess Control Environment ○ Review performance management

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Circular	Key Provisions
	<ul style="list-style-type: none"> ○ Information Technology (IT) Governance ○ Manage relationship with stakeholders (internal to municipality and external) ○ Meet 4 x per year or as required <p><i>Internal audit</i></p> <ul style="list-style-type: none"> ● The internal audit process is described in detail including leadership posts, the need for independence and objectivity, the mandate of the audit (charter) ● Planning and organising the internal audit and the types of audits that may be undertaken and resources needed ● Options for outsourcing or co-sourcing of Internal Audit Activity ● Quality assurance and improvement ● Coordination of efforts with other assurance providers ● Nature of work in terms of governance, risk management, control etc. ● The overall audit process including key steps
<p>MFMA Circular No 68 Municipal Finance Management Act No. 56 of 2003</p>	<p>Unauthorised, Irregular, Fruitless and Wasteful Expenditure</p> <ul style="list-style-type: none"> ● Provides clarity on the procedures to be followed when dealing with unauthorised, irregular or fruitless and wasteful expenditure ● Includes a register (Annexure A) which will assist municipalities in recording, keeping track and managing the categories of expenditure ● Defines unauthorised, irregular, fruitless and wasteful expenditure and provides examples of expenditure that is NOT unauthorised ● Explains unforeseen and unavoidable expenditure ● Explains irregular expenditure ● Explains fruitless and wasteful expenditure ● Describes process to be followed when dealing with unauthorised, irregular, fruitless and wasteful expenditure ● Explains how the adjustments budget is used to authorise unauthorised expenditure ● Requires the recovery of unauthorised expenditure from the liable official or political office-bearer ● Outlines the ratification of minor breaches of the procurement process that may be done in terms of regulation 36(1)(b) of the Municipal Supply Chain Management Regulations ● Describe the disciplinary charges for irregular expenditure as well as criminal charges and recovery measures for irregular expenditure ● Similar provisions apply for fruitless and wasteful expenditure
<p>MFMA Circular No. 71 Municipal Finance Management Act No. 56 of 2003</p>	<p>Uniform Financial Ratios and Norms</p> <ul style="list-style-type: none"> ● Aims to bring consistency in interpretation and application of certain financial information using standardised financial ratios ● All municipalities must use this to get a clear picture of what aspects of their operations, strategies need to change in order to ensure overall financial sustainability and improvements to service delivery.

Municipal Public Accounts Committees (MPAC) – Guide and Toolkit

Circular	Key Provisions
	<ul style="list-style-type: none"> • It covers performance, position and budgets, with benchmark ratio/norms provided. • The assessment of the financial position can be undertaken by applying different assessments of financial ratios and norms e.g. the level of Capital Expenditure to Total Expenditure, can indicate the prioritisation of expenditure for current operations <i>versus</i> future capacity in terms of municipal services.
<p>MFMA Circular No. 73 Municipal Finance Management Act No. 56 of 2003</p>	<p>System of Delegations</p> <ul style="list-style-type: none"> • Arises from section 59 of the Municipal Systems Act, - the responsibility of developing and maintaining a system of delegation vests with the Municipal Council. • The Accounting Officer is to manage and implement the system of delegations. • In terms of section 79 of the MFMA the Accounting Officer is responsible for ensuring that an appropriate system of delegations is developed to maximise administrative and operational efficiency and provide adequate checks and balances in the municipality’s financial administration • The rationale of delegated authority is briefly described – e.g. the municipal council must provide the municipal manager with appropriate powers and authority to enable the municipal manager to execute his responsibilities in an effective and efficient manner. A municipal manager empowers the administration by means of appropriate delegations. • The principles of delegation are set out • Tools of application are provided in various annexures: <ul style="list-style-type: none"> ○ Annexure A provides information on the principles to be considered for an effective system of delegation ○ Annexure B is a delegations template, ○ Annexure C sub-delegations, ○ Annexure D sub-delegations to acting positions, ○ Annexure E detailed delegation framework
<p>MFMA Circular No. 76 Municipal Finance Management Act No. 56 of 2003</p>	<p>Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings</p> <ul style="list-style-type: none"> • Outlines the aim and contents of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings when dealing with allegations of financial misconduct and timing issues related to the enforcement of the regulations • Describes the various sections of the regulations and the provisions for: <ul style="list-style-type: none"> ○ Definitions of misconduct ○ Reporting misconduct and the functioning of disciplinary boards including composition, reporting etc. ○ Offences by political office bearers and links to the councillor code of conduct ○ Reporting to higher spheres of government • Clarification of specific provisions within the regulations e.g. where allegations involve senior managers • Discussion and advice to eliminate any potential conflict or duplication of functions between the Municipal Public Accounts Committee (MPAC) and the Disciplinary Board (DC)

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Circular	Key Provisions
	<p>Board) in so far as it relates to the council committee appointed in terms of section 32(2) of the MFMA to investigate the recoverability of irregular expenditure</p> <ul style="list-style-type: none"> • The identification of provincial officials who will assist with the monitoring responsibilities of the implementation of the regulations.
<p>MFMA Circular No. 88 Municipal Finance Management Act No. 56 of 2003</p>	<p>Municipal Circular on Rationalisation Planning and Reporting Requirements for the 2018/19 MTREF</p> <ul style="list-style-type: none"> • Conceptual framework for performance reporting • Clarifying component 3 of the SDBIP • Indicators ready for introduction in 2018/19 • Additional governance information required • Timing and methodology for preparation of performance indicators and targets.

MFMA Section 32, 129, 165 and 167 as directly relevant.

MFMA Circular 88, 76, 73, 71, 68, 65, 63, 50, 44, 32, 12

Sources:

- National Treasury, MFMA webpage for Regulations, Circulars, Guides
- Annual Report Template issued by National Treasury 2015
- Municipal Finance Management Act 56 of 2003
- Municipal Systems Act 32 of 2000
- A Guide to Municipal Finance Management for Councillors issued by NT 2006
- Local Government: Municipal Finance Management Act (56/2003): Municipal Supply Chain Management Regulations (GG 27636)
- Three Aspects We Audit issued by Office of the Auditor-General 2011/2012
- Guide to establishment of MPAC issued by NT and DCOG jointly August 2011.
- Common Language Guide To Municipal Financial Statements <http://www.mah.gov.on.ca/Page15026.aspx>
- Various Annual Reports and Annual Financial Statements from municipalities across South Africa.
- Municipal Money a project by National Treasury <https://municipalmoney.gov.za>
- CCAF-FCVI Inc. (2006) Parliamentary Oversight – Committees and Relationships *A Guide to Strengthening Public Accounts Committees*
- Speakers' Forum of South Africa (SFSA), & The *South African Legislatures' Secretaries' Association (SALSA) (undated) Oversight Model of the South African Legislative Sector*
- Prof. Kerry Jacobs of the Australasian Council of Public Accounts Committees (ACPAC) (2013) *The Capacity and Performance of Public Accounts Committees*

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